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ABSTRACT

Eight articles discuss different aspects of the Northwest ordinances. W. W. Abbot emphasizes George Washington's enduring, complex, and deep involvement with the west and its land. Robert V. Remini points out the value of the Articles of Confederation by emphasizing that it was the Congress under the Articles that passed the Northwest Ordinance. The amendments of the ordinances of the 1780s and patterns of early settlement in the Northwest Territory are highlighted by Rowland Berthoff. Malcolm J. Rohrbough discusses the fact that land was a central theme in U.S. life from the early 17th century to the middle of the 19th century. Carl F. Kaestle focuses on the Northwest ordinances as the founding documents of public education in the old northwest. The significance of excluding slavery from the old northwest in 1787 is elucidated by David Brion Davis. Robert F. Berkhofer, Jr. shows that the Northwest Ordinance promoted a novel principle by allowing new territories to achieve full statehood upon admission to the union. George W. Geib reviews a traveling exhibit, "Liberty's Legacy," that toured each of the six states in the old northwest. (SM)

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COVER PHOTOGRAPH:
VAUGHAN PORTRAIT OF GEORGE WASHINGTON BY GILBERT STUART
Courtesy Indiana University.

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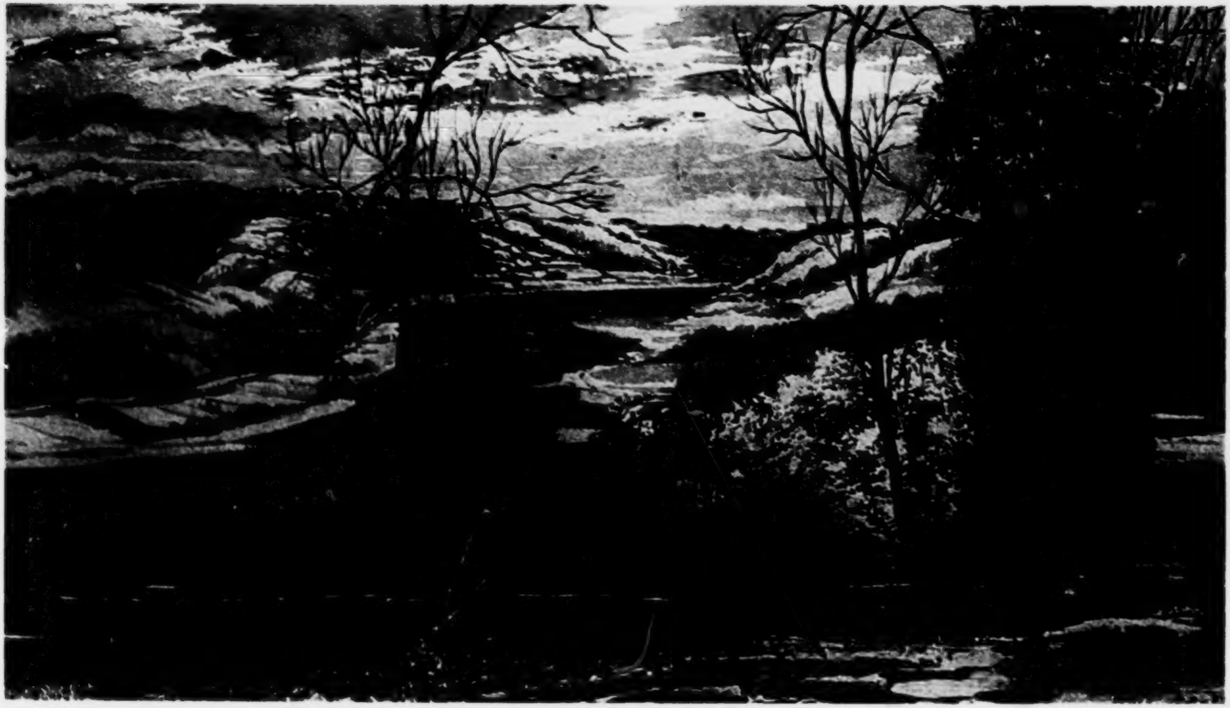

PATHWAY TO THE WEST: "OHIO RIVER NR. WHEELING, VA."

Watercolor by Lefevre J. Cranstone.
Courtesy Oglebay Institute Mansion Museum, Oglebay Park,
Wheeling, West Virginia.

EDITOR'S INTRODUCTION

The articles that make up this thematic issue of the *Indiana Magazine of History* were delivered first at a conference on the Northwest ordinances held at Indiana University, September 4–6, 1987. Over a period of two days approximately three hundred participants, interested laymen, students, and scholars, heard a series of papers analyzing the ordinances. The papers provoked much discussion from the audience, confirming the organizers' conviction that serious meetings of this sort can attract a varied gathering of people, many of whom are not involved professionally in the scholarly world. The Indiana University History Department and the Alumni Association sponsored the Bloomington conference jointly.

The conference formed part of a wider celebration of the ordinances that involved activities in the five states of the Old Northwest and Minnesota. Besides the conference in Bloomington and similar proceedings held in the other states, one of the highlights of the celebration was an exhibit of materials designed to illuminate the Constitution and the ordinances and scheduled to appear at six major libraries and historical societies in the Midwest. The initiative in organizing this celebration came from Frank B. Jones, former director of the Indiana University Alumni Association. Funds for these activities were generously contributed by the National Endowment for the Humanities, the Commission on the Bicentennial of the United States Constitution, Indiana University, the Lilly Endowment, the George and Frances Ball Foundation, and the John W. Anderson Foundation.

In this bicentennial year attention to the ordinances seemed particularly appropriate for the Midwest. In a symbolic way the ordinances have long been seen, certainly in the states between the Ohio and Mississippi, as documents of constitutional import, similar if not equal to the Constitution itself. Popular wisdom, of course, has been inclined to celebration rather than critical examination and for good reason. If the ordinances proved to be ambiguous documents as the republic advanced across the continent, they established general principles that have served well the American inclination to reach beyond itself. State equality, partible inheritance, a wide distribution of land, public support for education, and a preference for freedom over slavery were only some of the ideals that found expression in the ordinances. Often at odds with the realities of American life and slow to realization, they have in time become enduring testimony to the genius of the founding generation. Scholarly attention has been inclined to stress the distance that so often persisted between principle and reality, though the point could not have been made if the principle had not itself been part of the reality. Oddly the ordinances have been neglected in the last generation. The articles printed in this issue, each by a major scholar in the field, constitute an important effort to revitalize a critical area of American history.

On the cover of the issue appears one of the Vaughan portraits of George Washington painted by Gilbert Stuart. The painting, now owned by Indiana University, was the gift of Eli Lilly and served as the centerpiece of the traveling exhibition. Washington took no direct part in the making of the ordinances, but the article by W. W. Abbot in this issue will amply demonstrate his centrality in the opening of the West. As a frontispiece we have reproduced a watercolor by Lefevre J. Cranstone, a mid-nineteenth century artist, that offers a vivid glimpse of the water route followed by so many of the early settlers.

Bernard W. Sheehan

George Washington, the West, and the Union

W. W. Abbot[*]

George Washington's involvement with the American West was lifelong, beginning when he was sixteen years old and ending only with his death. From start to finish Washington's interest in his country's advancing frontier was both personal and political. Private interest and public advantage were for him seldom at odds as he extended or developed his holdings in the West and at the same time promoted public measures that made for the greater security and accessibility—and value—of such lands. A full review of Washington's enduring, complex, and deep involvement with the West and its land might indicate something heretofore missed about how George Washington and his times joined forces to make a great man or, to paraphrase Thomas Jefferson on Washington, how nature and fortune combined to make a man great.[1]

On the day after he crossed the Blue Ridge Mountains for the first time—it was a fine Saturday in March, 1748—the sixteen-year-old Washington reported that the men in the surveying party rode their horses along the Shenandoah River "through most beautiful Groves of Sugar Trees & spent the best part of the Day in admiring the Trees & richness of the Land."[2] Before he was twenty Washington had surveyed for himself, or had bought, a number of tracts of fertile land on the Virginia frontier totaling at least two thousand acres.[3] At his death nearly one-half century later, he owned more than forty-five thousand acres of carefully chosen western lands in

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[*] W. W. Abbot is James Madison professor of history and editor of *The Papers of George Washington*, University of Virginia, Charlottesville.

[1] Jefferson's famous appraisal of Washington's character appears in a letter to Dr. Walter Jones, January 2, 1814. See Paul L. Ford, ed., *The Writings of Thomas Jefferson*: Vol. IX, *1807–1815* (New York, 1898), 446-51.

[2] Donald Jackson and Dorothy Twohig, eds., *The Diaries of George Washington*, I, 7, in *The Papers of George Washington* (Charlottesville, Va., 1976–).

[3] For Washington's surveys and his landholdings in Frederick County, Virginia, see "George Washington's Professional Surveys, 22 July 1749–25 October 1752," in W. W. Abbot, ed., *The Papers of George Washington*, Colonial Series, I, 8-37, esp. 35 n. 24.

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what are now Kentucky, Ohio, West Virginia, and Pennsylvania, as well as in the Shenandoah Valley of Virginia.[4]

From his initial trip to the Shenandoah until his marriage early in 1759 shortly before his twenty-seventh birthday, Washington more often than not was on the frontier, first as a very young surveyor and then for five years as a scarcely less precocious colonel of a regiment of soldiers. It was as a military man that Washington became familiar with the trans-Allegheny West and began to dream of what the future held for its fertile land and navigable streams. In 1753 the governor of Virginia, Robert Dinwiddie, sent young Washington over the mountains to the Ohio country to deliver a warning to the commandant of the French forces there. The next year, when Washington became colonel of the Virginia troops, he was again out on the Pennsylvania frontier, on land he was in a few years to own, when he was attacked and forced to surrender to a party of French soldiers and Indians, setting in motion, as it happened, a great war for empire between Britain and France. He was back in the west in 1755 with General Edward Braddock on the day that Braddock's army was ambushed and routed as it approached Fort Duquesne, the fort that the French had recently built at the forks of the Ohio. Three years later he was once again marching through the Ohio country in the successful campaign against Fort Duquesne mounted by General John Forbes during the summer and fall of 1758. Washington was in command of one of the three brigades of Forbes's army when the army finally reached the abandoned and burned out fort in November. After returning to Williamsburg in December of 1758, he did not go back to the Ohio country until his journey there in 1770, then not again until his shorter visit of 1784; but Washington's view of the West, and of its importance, which he held even through his presidency and to his death, had by 1758 been firmly fixed.

In the early stages of the Forbes campaign Washington engaged in a bitter controversy that revealed how completely his experiences of the previous four years had convinced him of the crucial importance of the transmontane west to the future of his country, at that time Virginia, soon to be the United States. Upon learning in July that for his army's march to the Ohio Forbes proposed to cut a new road from Raystown (now Bedford) in Pennsylvania rather than to use the old Braddock road from Winchester in Virginia, Washington persuaded himself that the British general had been duped by men in Pennsylvania. The Pennsylvanians would,

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[4] Roy Bird Cook pulled together a great deal of information on Washington's landholdings in his *Washington's Western Lands* (Strasburg, Va., 1930). A great deal more may be gained from the texts and annotation in the *Diaries* and the various chronological series of the new edition of Washington's *Papers*, cited above. See particularly his Advertisement of March, 1784.

Washington foresaw, use the new road after the war to monopolize trade with a burgeoning West rather than allowing commerce to flow, in the way Washington believed it otherwise would and should, along Braddock's road into Virginia. For six weeks the young provincial officer fought, right up to the brink of insubordination, first to sway the British general and then to thwart him as Forbes moved to begin construction of a new road. Finally, on September 1, 1758, bemoaning "the luckless Fate of poor Virginia to fall a Victim to the views of her Crafty Neighbours," Washington hinted to John Robinson, speaker of the Virginia House of Burgesses, that he (Washington) should be sent to London to reveal to George III the wrongheadedness, if not the duplicity, of the man who was the king's general and Washington's commanding officer.[5]

Besides this strong sense that whatever the future held for the West would vitally affect the people in the East, Washington also gained from the war what was to be a very large personal stake in the region beyond the mountains. In 1754 Governor Dinwiddie issued a proclamation declaring that two hundred thousand acres in the West should be set aside for the men participating in Virginia's military expedition of that year, the one ending with Washington's surrender at Fort Necessity; and at the end of the war in 1763 a royal proclamation held out the promise of land in America for the army officers who had fought there in the war against France. Before any grants could be made under either of the proclamations, the British government in 1763 closed the land beyond the mountains to further settlement. Even with the frontier closed, Washington continued to look upon the West as holding out the best hope both of enrichment for enterprising Virginians, himself included, and of an eventual return to prosperity for Virginia's faltering economy.

In 1767 Washington urged a friend and neighbor who had fallen on bad times to pull up stakes and move out to lands soon to be available in western Pennsylvania, "where an enterprizing Man with very little Money may lay the foundation of a Noble Estate . . . for himself and posterity . . . . for proof of wch only look to Frederick [County], & see what Fortunes were made by the . . . first takers up of those Lands; Nay how the greatest Estates we have in this Colony were made; Was it not by taking up & purchasing at very low rates the rich back Lands which were thought nothing of in those days, but are now the most valuable Lands we possess?"[6] Showing himself willing to put his money where he was advising others to put theirs, three months later, on September 17, 1767, he wrote to his old comrade-in-arms William Crawford on the Pennsylvania frontier, asking him "to look me out a Tract of about 1500, 2000, or more acres somewhere in your Neighbourhood" and find "some method to secure it immediately from the attempts of any other" to lay claim to it. Crawford found a suitable tract and surveyed it for his friend, and the next year Washington secured title to it, his first land west of the Alleghenies, on the Youghiogheny River thirty five miles southeast of Fort Pitt.[7] Many more acres to the south and west were soon to be his.

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[5] Washington's letter to John Robinson is printed in volume V of the Colonial Series of the *Washington Papers*. All of the letters to or from Washington that are hereafter referred to or quoted from have been or soon will be published either in the Colonial Series (1748–1775) or the Confederation Series (1784–1788) of the *Papers*. The letters from Washington may be found, usually in a slightly different form, in John C. Fitzpatrick, ed., *The Writings of George Washington* . . . (39 vols., Washington, D.C., 1931–1944), II–III, xxvi–xxx.

In the same letter that he wrote to Crawford about land in Pennsylvania, Washington proposed that the two of them join forces "in attempting to secure some of the most valuable Lands in the Kings part" to the West. Washington pointed out that anyone "who neglects the present oppertunity of hunting out good Lands & in some measure Marking & distinguishing them for their own (in order to keep others from settling them)" would be left out in the cold, for the Proclamation of 1763 forbidding settlement was certain to "fall" within "a few years." Crawford was to "be at the trouble of seeking out the Lands" while Washington took upon himself the task of securing them as soon as there was a possibility of doing so. He would also "be at all the Cost & charges of Surveying Patenting &ca." Washington warned Crawford to "keep this whole matter a profound Secret" by "a silent management . . . snugly carried on by you under the pretence of hunting other Game." As soon as there was the "bear possibility" of the Ohio country's being opened up, Washington would "have the lands immediately Surveyed to keep others off."

In the end it was Washington himself, though accompanied by Crawford, who went down the Ohio in search of good land. The tracts that he selected were to be surveyed not for himself and Crawford alone, however. On December 15, 1769, Washington petitioned the Virginia governor and council for two hundred thousand acres of land for the former Virginia officers and soldiers entitled to grants under the terms of Dinwiddie's Proclamation of 1754.[8] The council agreed that Washington and his associates could, in no more than twenty surveys, claim two hundred thousand acres of vacant land to the south and east of the Ohio River in an area recently made available for settlement as a consequence of two Indian treaties. The next fall Washington and Crawford spent a month on the Ohio and Great Kanawha rivers identifying approximately two hundred thousand acres that Crawford was later to survey in twenty-five surveys. From 1771 through 1773 Washington oversaw Crawford's activities and the collecting of money to defray the cost of Crawford's surveys, and he personally managed the distribution of the surveyed land to the old officers and soldiers or to their heirs. His own share of the two hundred thousand acres and the shares he acquired from others added up to more than twenty-three thousand acres stretching for forty unbroken miles along the Great Kanawha River and nearly ten thousand acres on the banks of the Ohio.[9]

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[6] Washington to John Posey, June 24, 1767.

[7] See William Crawford to Washington, January 7, 1769. Fitzpatrick misdates Washington's letter of September 17, 1767, as September 21.

[8] *Executive Journals of the Council of Colonial Virginia*: Vol. VI, *June 20, 1754–May 3, 1775* (Richmond, Va., 1966), 337-38.

Aside from strictly personal affairs and perhaps his involvement in Virginia's resistance to British policy between 1773 and 1775, Washington devoted more time and attention to managing the acquisition and distribution of western land for himself and his old comrades than to anything else between the French and Indian War and the Revolution. While with one hand in the early 1770s he was getting western land into private hands and amassing great holdings for himself, with the other he was doing what he could to promote the future development of these western lands by involving himself in a public project that was to become of consuming interest to him after the Revolution. In 1770 Washington wrote about the great advantage to Virginians and Marylanders of "making Potomack the Channel of commerce between Great Britain and that immense territory, which is unfolding to our view."[10] To hasten the day when the Potomac would become "the Channel of conveyance of the extensive & valuable Trade of a rising Empire,"[11] Washington in 1772 helped push through the Virginia General Assembly a bill to raise money "for opening and extending the Navigation of the River *Potowmack* from Fort *Cumberland* to Tide Water."[12] Opposition from Baltimore merchants and the war halted the project for the time being, and Indian unrest defeated Washington's two costly efforts before the Revolution to place people on his Ohio land, which he had been determined to do in order to secure his claim to the land and hasten the day when it would become profitable.

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[9] See Cook, *Washington's Western Lands*, esp. chapters 1-4; Washington *Diaries*, II, 277-328; and correspondence between Washington and Crawford, 1767–1773. Some of this land was a part of the five thousand acres Washington was entitled to under the terms of the royal proclamation of 1763 and some of it was what others had received under its terms and conveyed to Washington.

[10] Washington to Thomas Johnson, July 20, 1770. See also Washington to Thomas Jefferson, March 29, 1784.

[11] Washington to Thomas Johnson, July 20, 1770.

[12] *Journals of the House of Burgesses of Virginia*: Vol. 8a, *1770–1772* (Richmond, Va., 1906), 292, 312. See also Washington to Jonathan Boucher, May 4, 1772; Washington to Jefferson, March 29, 1784. See also Corra Bacon-Foster, *Patomac Route to the West* (Washington, D. C., 1912), 17-21.

During the war years Washington was, of course, not able to devote much attention to his western lands, but immediately after the war his western claims became a main concern. In the first six months of 1784 after his return to Mount Vernon, he took steps to have legal title to the various parcels of his western lands confirmed by the state of Virginia, and he began to search for ways to make his holdings productive and profitable. He wrote and talked to people about what could be done with these lands; he ran notices in newspapers and distributed handbills, in Maryland and in Pennsylvania as well as in Virginia, inviting settlers to take up and improve small parcels under long-term leases; and he tried to identify and make contact with people abroad who might be induced to come to America and become his tenants.[13] A trip he made in September, 1784, to inspect his western holdings was cut short by reports of Indian violence, and he was not able to go down the Ohio to the Great Kanawha as he had done in 1770. On his return from the frontier, however, he single-mindedly and almost single-handedly mounted a campaign to have a company formed for developing a water passage up the Potomac, over to the Ohio, and from there to Lake Erie beyond. Here in 1784, as in 1773, personal profit and local advantage were very much at work; but changes wrought by independence, both in the relationship of the union of states to the West and in Washington's own perceptions, also were at work, fundamentally altering Washington's view of the potential dangers and advantages posed by the West for the thirteen confederated states. His activities in the fall and early winter of 1784–1785 merit examination in some detail.

A year earlier, in 1783, after touring upstate New York with Governor George Clinton shortly before he left the army, Washington wrote the French philosophe François Jean Chastellux on October 12, 1783, about his trip: "Prompted by these actual observations," he concluded in his letter, "I could not help taking a more contemplative & extensive view of the vast inland navigation of these United States . . . & could not but be struck with the immense diffusion & importance of it . . . . I shall not rest contented 'till I have explored the Western Country, & traversed those Lines . . . which have given bounds to a new Empire." A few months later, back at Mount Vernon, Washington received a letter from Thomas Jefferson dated March 15 urging him to give up "the sweets of retirement & repose" for a time in order to assume "the superintendance" of a project to open up the navigation of the upper James and Potomac rivers and to connect them with streams flowing into the Ohio. After expressing his strong support for the project and his equally strong doubts that sufficient public funds could be got for it, Washington on March 29 conceded that "the immense advantages which this Country would derive from the measure would be no small stimulus [for me] to the undertaking; if that undertaking could be made to comport with those ideas, & that line of conduct with which I meant to glide gently down the stream of life."

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[13] Much of his correspondence at this time deals with one or another of these matters, but see particularly his letters to Samuel Lewis, February 1, to Thomas Lewis, February 1, to John Harvie, February 10, to Gilbert Simpson, February 13, to John Witherspoon, March 10, and his Advertisement, March 10, all in 1784.

Jefferson knew that more than the "sweets of retirement" were at stake for Washington, and neither he nor anyone else would have had trouble understanding what Washington meant by "those ideas, & that line of Conduct" by which he was bound. When the hero of the Revolution laid down his arms in December, 1783, and returned to his farm, the world discovered a new Cincinnatus and began to bestow on Washington the *fame* that was to place him among the great men of history.[14] Washington well understood, and said as much often enough, that the fame being bestowed on him by the world, and yet to be ratified by posterity, required that he act the part until the end, lest it be diminished or ultimately lost. This is what Washington was referring to when he spoke of the "line of Conduct" that he had set for himself. His heightened, seemingly excessive concern for his reputation, especially apparent in his correspondence in the 1780s, was not entirely, or perhaps even primarily, for its own sake. His fame, though to be cherished for its own particular worth, had, as he and Jefferson and the rest knew, its great symbolic value for a newly independent people. If the need arose, its weight could be thrown into the balance to preserve the union of states and save the Revolution. The question in Washington's mind in the spring of 1787, for instance, and in the minds of his advisers, as the record shows,[15] was whether his hard-won reputation must be put on the line to give the constitutional convention its best chances of succeeding or whether it should be held in reserve as a rallying point in the crisis that would ensue if the convention failed. It was not as easy a decision as one might now suppose.

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[14] For the meaning of "fame" to Washington and his contemporaries, see Douglass Adair, *Fame and the Founding Fathers* (Bethlehem, Pa., 1967). A passage from an address to Washington from the Virginia legislature, dated June 24, 1784, conveys something of what fame meant to this generation of Americans: "Nor shall we ever forget the exemplary respect which in every instance you have shewn to the rights of civil authority; or the exalted virtue, which on many occasions led you to commit to danger your fame itself, rather than hazard for a moment the true interest of your country." *Journal of the House of Delegates of the Commonwealth of Virginia* (Richmond, 1828), June 22, 1784.

[15] See in particular Washington to David Humphreys, December 26, 1786, Humphreys to Washington, January 20, 1787, and Washington to Edmund Randolph, April 9, 1787.

Despite the strength of the forces that pushed and pulled him into retirement in 1784, Washington did not, of course, wait until duty called in 1787 to put what he had learned and what he had become to the public use. He was hardly settled under his fig tree and vine at Mount Vernon before he began to persuade himself that Jefferson was right, that he might properly perform one last service for his country. To assure Washington that his efforts to enlist the great man in this important public project did not arise from selfish or unworthy motives, Jefferson had written that he himself was someone "not owning, nor ever having a prospect of owning one inch of land on any water either the Patowmac or Ohio." In his reply Washington wrote: "I am not so disinterested in this matter as you are; but I am made very happy to find a man of discernment and liberality (who has no particular interest in the plan) thinks as I do, who have Lands in the Country the value of which would be enhanced by the adoption of such a scheme." Although Washington recognized that both public and private interests were involved and was aware of the connections as well as the distinctions between the two, his initial hesitation about taking the lead in the Potomac River project probably had less to do with any fears that his motives would be misunderstood than with how his early emergence from his much vaunted retirement would be perceived. In any case, by the end of the summer of 1784 his mind seems to have been made up.

When he set out in September to inspect his western lands, Washington confided to his diary that "one object of my journey" was "to obtain information of the nearest and best communication between the Eastern & Western Waters; & to facilitate as much as in me lay the Inland Navigation of the Potomack." Because of the "discontented temper of the Indians," he decided not to go down the Ohio, but he quizzed the frontiersmen about navigable streams and about land portages between the Potomac and the Ohio and between the Ohio and the Great Lakes. After a month on horseback he arrived back at Mount Vernon in October, 1784, with misplaced confidence that convenient passage from the great falls of the Potomac all the way to Detroit on Lake Erie could be achieved with relative ease. Early in the journey prospects for success had been brightened for him when he watched a model of James Rumsey's boat mechanically propelling itself upstream.[16]

After his return to Mount Vernon Washington waited less than a week to write Virginia Governor Benjamin Harrison a remarkable letter in which he effectively put himself at the head of a public campaign to use the Potomac to develop better access to the West and tie it to the East. He urged Harrison to mark his administration "as an important œra in the Annals of this Country" by taking two specific steps to promote inland navigation: first, Harrison should arrange for the state to have the James and Potomac rivers surveyed "to their respective sources" and to have the same done for those "Waters East & West of the Ohio, which invite our notice by their proximity, & the ease with which Land transportation may be had between them & the Lakes on one side, & the rivers Potomac & James on the other"; and, second, if the Virginia assembly could not be persuaded to provide the funds—and Washington expected this to be the case—he should induce it to pass a bill empowering private citizens to set up a company for "extending the navigation of Potomac or James river."[17]

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[16] Washington's journal of his trip to the frontier is printed in Washington *Diaries*, IV, 1-71, quotations pp. 4, 21.

In this letter to Harrison written on October 10, and in those he wrote to others later in the fall of 1784 regarding the navigation of the Potomac, Washington set out his enlarged views of the West. It becomes clear why inland navigation was the one thing that could draw the hero of the Revolution back into the public arena so quickly and unequivocally. He was convinced, as he wrote Harrison, that the Ohio country would "settle faster than any other ever did, or any one would imagine." The hordes of new settlers inevitably would demand outlets for their products. Whoever provided the outlets—the Spanish to the south, the British to the north, or the Americans to the east—would win their allegiance. It is a matter "of great political importance," Washington wrote Jacob Read in Congress on November 3, "to prevent the trade of the Western territory from settling in the hands, either of the Spanish or British," for if "the trade of that Country should flow through the Mississipi or St Lawrence . . . they would in a few years be as unconnected with us, indeed more so, than we are with South America." Washington saw "a separation or a war" as a "consequence" if Britain and Spain, "instead of *throwing stumbling blocks* in their way as they now do, should hold out lures for [the settlers'] trade and alliance." When writing to Henry Knox a month later, on December 5, about his endeavors "to stimulate my Countrymen to the extension of the inland navigation of the rivers Potomac and James," he made his point unmistakably clear, declaring that "if this Country . . . cannot, by any easy communication be drawn this way . . . they will become a distinct people from us—have different views—different interests, & instead of adding strength to the Union, may in case of a rupture with either of those powers [Spain or Britain], be a formidable & dangerous neighbour."

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[17] Washington to Benjamin Harrison, October 10, 1784.

Washington's solution was to provide westerners easy access to eastern markets. "The more communications are opened" between East and West, Washington wrote George Plater of Maryland on October 25, "the closer we bind that rising world (for indeed it may be so called) to our interests; and the greater strength shall we acquire by it . . . . These when viewed upon a Commercial scale, are alone sufficient to excite our endeavors; but the political object is, in my estimation, immense." He pointed to the advantages that would accrue to the states of Maryland and Virginia and to particular individuals in them as well from an active trade with the West along the Potomac. "But," he wrote Plater, "I consider this business in a far more extensive point of view—and the more I have revolved it, the more important it appears to me; not only as it respects our commerce, but our political interests, and the well being, & strength of the Union also." It was to advance national goals that Washington came out of retirement to create the Potomac River Company;[18] the enrichment of Virginia and of some Virginians was now, at best, a secondary consideration for him.

While Washington himself never lost sight of the larger implications—the "political object"—of inland navigation, in order to gain support for his Potomac project in the Virginia and Maryland legislatures he emphasized the wealth that would flow into the region from increased trade with the West—trade, he warned, that would be lost to the more commercial-minded Pennsylvanians and New Yorkers if the people did not act promptly. When calling upon the legislatures of Virginia and Maryland to create a private company for opening the upper Potomac to navigation, he reminded them that the company must be given the power "to hold out sufficient inducements to engage men to hazard their fortunes in an arduous undertaking."[19] Later when he was seeking funds for the company from men such as the Marquis de Lafayette and Robert Morris, he was careful to hold out for investors the prospect of great gains from fees collected on the waterways.[20] As he reminded James Madison on December 3, when Madison was preparing to shepherd the bill creating the Potomac River Company through the Virginia legislature, "the motives which predominate most in human affairs is self-love and self-interest." To get his company and to get it going Washington talked as of old about sectional advantage and private gain, but he also spoke to investor and politician about his basic concern: how links to the West could well determine the future safety and prosperity of the Union.

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[18] For Washington's attempt to draw the Congress of the Confederation into his scheme for opening up communication to the West, see particularly his letter to Richard Henry Lee, December 14, 1784.

[19] Washington to Joseph Jones and James Madison, December 3, 1784.

[20] See Washington to Robert Morris, February 1, 1785; and to the Marquis de Lafayette, February 15, 1785.

Washington did more than talk and write. Nor was he content only to lend the prestige of his name, though even that in any other connection he consistently refused to do. He instead intervened, directly and decisively, to secure prompt interstate cooperation in forming a company to his liking for opening up communication to the West by way of the Potomac River. Convinced of the feasibility of the project by what he had learned on his recent journey to the West, Washington in October set to work, marshaling support for it among his friends and neighbors on both sides of the Potomac. A large number of these met in Alexandria, Virginia, on November 14 and drafted a bill for creating a company to finance and oversee the opening of the upper Potomac for navigation. In the meantime Washington was in touch with the governor and with friends in the Virginia legislature in Richmond, and on November 13 or 14 he arrived at the state capital for ten days to talk, particularly to James Madison and Joseph Jones in the House of Delegates, about creating a Potomac River Company.[21] Within a week of leaving Richmond he was in Annapolis where, as he reported to Madison on December 3 after his return to Mount Vernon, he found "opportunities of conversing with some of the leading characters in the different branches of the Legislature of Maryland, on the subject of inland navigation, and the benefits which might arise from a commercial intercourse with the Western Territory." He suggested to Madison that to save time and to "prevent dissimilar proceedings," which would be "as unproductive as no bill" at all, the two legislatures should "depute one or more members to meet at some intermediate place, and agree . . . upon an adequate bill to be adopted by both States." The two legislatures were agreeable, and Washington was named one of three Virginia commissioners to meet with the Marylanders.[22] By December 3 he was back in Annapolis where he acted as the sole Virginia commissioner. Working with a joint committee of the Maryland legislature, he secured a draft of a Potomac River bill that met his wishes. The Maryland legislature passed the bill on December 28 with only nine dissenting votes.[23] Washington immediately sent it to Madison with the admonishment that "to alter the Act now . . . will not do." At Washington's urging and under Madison's management, the Virginia legislature ten days later adopted the Maryland act unaltered.[24] Washington had his Potomac River Company, and on May 17, 1785, he became its first president, a position he held until he became president of the United States. Before he was done with that job, he had put to use all he had learned about the West since 1748.

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[21] On November 18 Henry Lee wrote from Alexandria a letter to Washington in Richmond in which he reported that the Alexandria meeting had completed its business and that he had enclosed a copy of the bill it had drafted for Washington to peruse and then place "in proper hands." Washington had left Richmond before the bill could get to him, and it did not reach him at Mount Vernon until November 28, when he immediately forwarded it to Madison. See Washington to Henry Lee, November 24, and to Madison, November 28, 1784. No Washington diaries exist for this period, but Washington's movements may be pieced together from his correspondence.

[22] Beverley Randolph to Washington, December 15, 1784; Washington to Randolph, December 20, 1784.

[23] See Washington to Thomas Blackburn, December 19, Washington to William Paca, December 19, Blackburn to Washington, December 20, Horatio Gates to Washington, December 24, Washington to Madison, December 28, Washington to Virginia legislature, December 28, 1784. See also Washington to Henry Knox, January 5, 1785, and the journals of the legislatures of both states.

No attempt has been made in this discussion of George Washington, the West, and the Union to define where Washington's activities in the fall of 1784 fit into the genealogy of the federal union formed in 1789, though clearly they do fit. Even less has the impact of Washington's ideas and deeds on the Old Northwest been measured, though, again, they were not without influence. The evidence presented does suggest, however, that Washington's long experience with the West and his strongly held views about its importance, leading in 1784 to his active participation in measures to bind it to the newly confederated states, more than anything else, except the war itself, served to prepare him for the role of nation builder. The West made the Virginia farmer lift his eyes to prospects beyond his own fields and his native Virginia. In his brief years of retirement after the war, it stretched his mind, stirred his imagination, enlisted his energies, and nourished his hopes for the future. It kept the old hero in trim for the demands of 1787 and 1789. As Madison put it when giving Jefferson an account of Washington's role in the establishment of the Potomac River Company, "The earnestness with which he espouses the undertaking is hardly to be described, and shews that a mind like his, capable of great views & which has long been occupied with them, cannot bear a vacancy; and surely he could not have chosen an occupation more worthy of succeeding to that of establishing the political rights of his Country."[25]

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[24] See particularly Madison to Washington, January 9, 1785.

[25] Madison to Jefferson, January 9, 1785, in *The Papers of James Madison*, ed. Robert A. Rutland and William M. E. Rachal (Chicago, 1973), VIII, 222-34.

The Northwest Ordinance of 1787: Bulwark of the Republic

Robert V. Remini[*]

I have been teaching the survey course of American history for forty years; and from the beginning of that long career I have always tried to underscore the importance and value of the Articles of Confederation by pointing out that it was the Congress under the Articles that passed the Northwest Ordinance, one of the most important, progressive, and far-reaching legislative acts in our history. It is, in fact, difficult to come up with a piece of legislation passed by Congress under the Constitution that is as significant. What is ironic is that the record of the vote on the Northwest Ordinance shows only eighteen delegates present in Congress on July 13, 1787, when it was passed, and most of the eighteen were supposedly second-rate in ability and relatively unknown. The important men in the country at the time were attending the Constitutional Convention in Philadelphia—or, like Thomas Jefferson and John Adams, were out of the country. A number of years later, in 1830, Daniel Webster had occasion to invoke the Ordinance on the floor of the Senate during his celebrated reply to Robert Y. Hayne. Said he: "we are accustomed, sir, to praise the lawgivers of antiquity . . . but I doubt whether one single law of any lawgiver, ancient or modern, has produced effects of more distinct, marked, and lasting character than the ordinance of '87. . . . We see its consequences at this moment, and we shall never cease to see them, perhaps, while the Ohio shall flow."[1] A handsome salute, and one well taken.

There is always the danger of indulging in hyperbole when speaking of the consequences of the Ordinance; what was achieved, what was provided, things like "Free Schools, Free Churches, Free Soil, Free Men," etc. What I should like to attempt here, however, is a discussion of some of the more political ramifications of this extraordinary document, ramifications that profoundly altered con-

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[1] *Congressional Debates*, 21 Cong., 1 sess., 1830, pp. 39-40.

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ceptions about the nature of the Union and served as a bulwark for the preservation of the Republic.

I must confess that my conclusions are personal and based on subjective evidence. Also, they are based on research not of the Northwest Territory itself but of the Southwest Territory, specifically the early history of Tennessee and to a much lesser extent the early history of Kentucky. Lest this focus appear unrelated, I would remind you that although Tennessee and Kentucky were not territorially connected to the area of what became Ohio, Indiana, Illinois, Michigan, and Wisconsin, they fell under the Ordinance's principal provisions as they moved from frontier to statehood, just as many other states thereafter. And they entered the Union before any of those from the Northwest: Kentucky in 1792, Tennessee in 1796. Except for the provisions concerning slavery, and perhaps those dealing with the Indians, the remaining articles of the Ordinance had a tremendous impact on both Tennessee and Kentucky, and perhaps the experience in these two states suggests some important conclusions about what happened in the Northwest. I might also point out that between 1781 and 1802 the United States received over 400,000 square miles from states with western land claims, of which only 265,000 square miles fell within the Northwest Territory; yet, the Ordinance affected all of that area.

As is obvious, the Ordinance, in a number of specific and important ways, established a governmental policy not only for the Northwest but for the entire public domain in the future.[2]

What is possibly unique and most important in the Ordinance, I believe, is that it successfully prevented the republic from collapsing immediately into an empire, and this it did by providing (or, rather, anticipating) a new concept of Union. I am not sure "collapsing" is the appropriate operative word here, but I cannot think of a better one offhand. It has been my experience in reading and studying history that all republics become empires sooner or later before their ultimate decline and fall. Once they acquire territory beyond the original limits, of necessity they evolve into empires. Note the Roman Republic; note the Venetian Republic; note the French Republic. And there are many other examples.

Certainly in the United States in the 1780s there was a great deal of talk about empire, then and later. On the frontier westerners worried about empire, about the imperial or colonial intentions of the East, and they talked about it quite freely. Back east at the seat of government they also talked about empire—sometimes indirectly, such as how the West could best be exploited and controlled. Later, Jefferson himself spoke of an "empire for liberty" when referring to Louisiana, and it was not uncommon for others to think in imperial terms when discussing the future of the West. Andrew Jackson, for example, had a dream of empire that included all Spanish North America.

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[2] R. Carlyle Buley, *The Old Northwest: Pioneer Period, 1815–1840* (2 vols., Indianapolis, 1950), I, 17.

What spared Americans from moving immediately and directly into a structure of imperialism was the Northwest Ordinance, in that it decreeed the stages and means by which territories would become states equal to all other states in the Union. Colonial status, or exploitation by the older ("original") states, could not and did not happen. What is ironic, of course, is that the Northwest Ordinance did, in fact, impose colonial rule on the territory in its initial stage. A governor, secretary, and judges were appointed by the central government in the east to administer the territory. Even so, statehood was inevitable once the territory reached the prescribed population; and that inevitability had a profound impact on the West—the entire West, as it turned out—both within and without the Northwest Territory.

I regard the Ordinance as the great bulwark of the republic because I believe a real threat existed at the end of the eighteenth century that this country might so easily have taken the wrong turn toward an imperialistic approach to the West and thereby have created for itself insuperable problems that would have spelled its immediate doom. What exacerbated the situation was the constant danger of treason against the United States by westerners. The presence of Spain and Great Britain always constituted a threat to the Union, and the presence of the Indians added to the threat because they were the pawns in the international political game. It seemed obvious that if the West were to remain in the hands of the United States following the Revolution then something had to be done about the British and Spanish, for they continued to retain considerable portions of land within the United States, north and south.

This external threat to the nation was matched by the internal threat to its safety; namely, the anger and frustration westerners felt toward the central government in failing to rid them of the Indian problem or dealing effectively with foreign interference with their trade, such as the Spanish interference from New Orleans. Moreover, they were convinced that a conspiracy existed in the East to keep them out of the confederacy except as dependent colonists.

I can explain better what I mean by using the history of Tennessee as a case in point. During the Revolution Scotch-Irish from Pennsylvania, Virginia, and North Carolina moved steadily westward and squatted on land both north and south of the Ohio River. Years later, during the debate on preemption in 1841, Senator Willie P. Mangum was accused of implying that squatters in the west were "a sort of North Carolina blue beards, who are rugged, dirty, brawling, browbeating monsters, six feet high, whose vocation is robbing, drinking, fighting, and terrifying every peaceable man in the community."[3] Since such an opinion was prevalent during the post-Revolutionary years as well, it is small wonder that the Congress felt these ruffians needed a strong and stable government in the West. No doubt, these brawling, browbeating monsters had two main concerns in migrating west: their economic livelihood and the presence and danger of the Indian. To address these concerns they turned to all manner of deception, intrigue, and conspiracy.

The Scotch-Irish who came to Tennessee were always described as "greedy after land." They were outside the bounds of any organized government and so in 1772 took it upon themselves to establish the Watauga Association, which provided for a sheriff, clerk, and a court with legislative and judicial powers. They assumed that the Treaty of Fort Stanwix in 1768 had settled the problem of land ownership because the Iroquois (who had only a shadowy claim to the region) relinquished all the land south of the Ohio to the mouth of the Tennessee. Of course the Indians in the immediate area did not see it quite that way, especially the Cherokees who carried out a fierce war against the Tennessee settlers in 1776. There was the real danger at this time that a British army would march from West Florida with Creeks, Chickasaws, and Cherokees to attack the entire frontier of Virginia and North Carolina. Fortunately, it did not happen, but the presence of the British and the Spanish increasingly influenced the politics of the southwestern frontier. Eventually the Cherokees were defeated and forced to sign treaties relinquishing their rights, but that did not end the raids, especially from the Chickamauga towns.

When the Revolution ended, England ceded the Floridas back to Spain, and Spain claimed that the northern boundary of her territory was the mouth of the Yazoo to the Appalachicola, not the 31st parallel. She established forts in West Florida, exercised control of the Mississippi on both sides of the river as far north as the mouth of the Ohio (and beyond that point on the west side), and concluded important treaties with the Indians. Thus, at the conclusion of the Revolution the United States was no more able to drive the Spanish from the southwest than it was to expel the British from the northwest.

When the Congress asked the states to cede their western land claims to the general government, North Carolina chose to cede only its unappropriated lands. Prior to the session William Blount, in 1783, got the North Carolina legislature to pass the so-called Land Grab Act, which offered unappropriated lands in what was to become Tennessee for a price of $5.00 per one hundred acres, a handsome bit of legislative skullduggery that created huge fortunes for several future Tennesseans. Many of these entrepreneurs were immediately ready for home rule; thus, when they heard of Jefferson's Ordinance of 1784, they quickly formed the new state of Franklin, believing that statehood would be an immediate process. But nothing happened. The Congress sat on its collective hands, and it did so, in part, because, as Robert F. Berkhofer has pointed out, Jefferson's Ordinance of 1784 merely provided a framework of general rules for establishing government in the West and was not intended to take effect immediately.[4] Naturally, North Carolina took exception to the presumption of the Franklin settlers in declaring their separation and ordered the arrest of John Sevier, the governor of Franklin, for daring to initiate this treason against the state. Sevier responded by contacting an agent of the Spanish envoy to the United States and initiating the so-called Spanish Intrigue. What is unusual and very interesting is that this plunge into treasonable conspiracy does not occur in the Northwest as it does in the Southwest.

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[3] *Congressional Globe*, 26 Cong., 2 sess., Appendix, p. 65.

According to some contemporaries the aim of the Franklin movement from the beginning was not only the separation from North Carolina but from the United States as well. Certainly by 1786 the danger of secession was real, and it was accompanied by several other intrigues with the Spanish who by this time sprawled along the entire Gulf of Mexico and up the Mississippi River. (I must say that I was staggered when I researched the Archivo des Indias in Seville, Spain, and discovered so many documents that proved the treachery, fickleness, and untrustworthiness of the Americans.)

Spain's American policy after the war, a policy that continued for decades, was based on her recognition of the need to protect her colonial possessions from the greed and cunning of scheming American frontiersmen. To safeguard her North American empire Spain did several things: she claimed the territory northward from the gulf to the Tennessee and Ohio rivers, rejecting the American contention that the 31st parallel separated the United States from her possessions; she closed the Mississippi to stifle the growth of the American settlements; she negotiated alliances with the Creek, Choctaw, and Chickasaw Indians; and she encouraged the American secession movements as they steadily emerged in the West.

The intrigues with Spain by Americans and the secession movement were intensified because of the conciliatory policy of Congress toward the southern Indians (e.g., the Treaty of Hopewell of 1785 and 1786) and the effort by John Jay, the secretary of foreign affairs, to negotiate a treaty with the Spanish in 1786 by which the United States would abandon the right to navigate the Mississippi River for twenty-five or thirty years in exchange for commercial concessions. The treaty never materialized, but the West exploded in anger that such an idea had even been contemplated.

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[4] Robert F. Berkhofer, Jr., "Jefferson, the Ordinance of 1784, and the Origins of the American Territorial System," *William and Mary Quarterly*, 3rd ser., XXIX (April, 1972), 260.

The Spanish were also accused of inciting and arming the Indians to attack Tennessee settlements, and they did in fact provide supplies to the Creeks under the Spanish treaty of 1784. The Creeks launched a general war upon Georgia and Tennessee settlers in 1786, and it was widely believed that the only way these attacks could be stopped was for the West to secede from the Union and ally itself with Spain. Alexander McGillivray, the Creek chieftain who had important trade relations with a Scotch trading company in Pensacola, told the Spanish that the Tennessee settlers had been so devastated by Indian raids that they were willing to submit to any conditions for peace and would even become subjects of the king of Spain. According to McGillivray the settlers said they were determined "to free themselves from a dependence on Congress."[5]

Dr. James White, a North Carolina congressman who in the words of one recent historian had a dream of empire for "Greater Franklin,"[6] told Don Diego de Gardoqui, the Spanish minister to the United States, that the western settlements would separate from the United States if Spain would reopen the Mississippi River, provide a military alliance and commercial concessions, and permit them to expand their territory down the Tennessee River past the Muscle Shoals to the headwaters of the Alabama and Yazoo rivers. These settlers were empire builders—born expansionists—and I do not think they ever changed. Gardoqui sent White to Franklin to act as a Spanish agent to deny charges that Spain incited the Indians, and Gardoqui added that Spain was "much disposed" to provide Franklin with "all the protection they ask." White later told the Spanish governor at Havana that the Franklinites "wished to place themselves under the protection of the King" of Spain.[7] Again the archives in Seville provide many documents that attest to the fact that the Franklinites were "very ardent" about the "future probability of an alliance and a concession of commerce" with Spain. The people of Franklin, claimed the Spanish, had "come to realize upon what part of the world and upon which nation depend their future happiness and security."[8] And it was not the United States.

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[5] Quoted in J. W. Caughey, *McGillivray of the Creeks* (Norman, Okla., 1938), 178-79.

[6] Stanley J. Folmsbee, Robert E. Calew, and Enoch L. Mitchell, *Tennessee: A Short History* (Knoxville, 1969), 92.

[7] D. C. and Roberta Corbitt, eds. and trans., "Papers from the Spanish Archives Relating to Tennessee and the Old Southwest" (*East Tennessee Historical Society Publications*, No. 18; Knoxville, 1946), 144.

[8] Quoted in Archibald Henderson, "The Spanish Conspiracy in Tennessee," *Tennessee Historical Magazine*, III (December, 1917), 234.

When Congressman White reached New Orleans, he found that not only were the Franklinites in communication with the Spanish but that an even newer settlement in Tennessee along the banks of the Cumberland River was also conspiring with them. The Cumberland settlement, where Andrew Jackson settled when he left North Carolina, had already begun correspondence with Don Estevan Miró, governor of Louisiana, in the hope of winning free navigation of the Mississippi. They realized that a small community, such as theirs, would be wiped out by the Indians if they (the Indians) had the help and protection of the Spanish. Since the United States government could do nothing, the Cumberland settlement offered to secede and take an oath of allegiance to the king of Spain. In return the residents would be left alone to manage their local affairs and would have free access down the Mississippi. They even went so far as to name their district after the governor, calling it the Mero district in the hope that this flattery would conciliate him. Jackson got involved in this affair, and Thomas P. Abernethy in his excellent book *From Frontier to Plantation* wondered aloud how a rank outsider like Jackson could inject himself into the secret councils of high politics unless the Spanish conspiracy was common knowledge.[9] Indeed, it was.

In Kentucky there was a similar situation. There was also present one of the arch conspirators of all time, James Wilkinson. He came to Kentucky from Maryland around 1783 and quickly established himself as a leader of the movement to separate Kentucky from Virginia. Wilkinson demanded radical action, and there was plenty of talk about establishing an independent nation. There were, of course, problems with the Indians, and the British still remained holed up in their forts along the Canadian border, which posts they were supposed to vacate according to the terms of the peace treaty that ended the Revolution. Wilkinson went to New Orleans and arranged a deal with the Spanish by which he personally would be granted monopoly rights to New Orleans if he would in return work for Kentucky's separation from the United States and eventual union with Spain. At a convention held in Kentucky shortly thereafter, Wilkinson and his friends called for a declaration of independence from Virginia and from the United States. It was decided to take the issue to the people and not by very much was the question of separation rejected.

The demand for home rule in Kentucky and Tennessee became more and more intense at the same time that the central government repeatedly stalled over addressing this problem. Consequently, Spanish agents constantly traveled on various errands throughout the American West and across the Ohio valley during this period; and American speculators, entrepreneurs, informers, and opportunists regularly visited New Orleans in the hope of concluding advantageous deals.

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[9] Thomas P. Abernethy, *From Frontier to Plantation in Tennessee: A Study in Frontier Democracy* (Chapel Hill, N.C., 1932), 126-27.

Perhaps it is stretching credulity to suppose that these Americans could seriously consider a permanent union with Spain, but an awful lot of people at the time thought it could and would happen. And the evidence in the Spanish archives is staggering. Of course, some westerners were always loyal to the United States; and others no doubt deliberately intrigued with the Spanish in order to frighten an older state, such as North Carolina, into ceding her western lands to the United States.

But it should be remembered that the Mississippi was a burning question in American politics from 1784 onward. Westerners, cut off by the mountains from the East and lacking the means to reach markets of the world except through the Mississippi, discovered they had few or no ties to the "original" states. The constant squabbling between individual eastern states during this so-called Critical Period further discouraged westerners. Easterners did not understand western problems, according to Tennesseans and Kentuckians, and were too caught up with their own seemingly petty concerns to address western problems—problems that involved westerners' very existence. Then the failure of Congress to do anything about creating new states after Virginia's cession in 1784, particularly with regard to Kentucky; the abortive attempts at state making by the Tennesseans in establishing Franklin, coupled with the inability of the government to expel the British and Spanish from American territory; and John Jay's negotiations with the Spanish to yield the Mississippi—all of these developments seriously threatened the future territorial integrity of the United States. It seemed as though the future allowed only two possible courses of action: either the East impose colonial rule on the West and suffer the consequences or watch as a British and/or Spanish absorption of the West take shape. George Washington spoke of this danger in a letter to Benjamin Harrison, governor of Virginia, on October 10, 1784:

> I need not remark to you Sir, that the flanks and rear of the United States are possessed by other powers, and formidable ones too; nor how necessary it is to apply the cement of interest, to bind all parts of the Union together by indissoluble bonds, especially that part of it, which lies immediately west of us, with the middle states. For, what ties, let me ask, shou'd we have upon those people? How entirely unconnected with them shall we be, and what troubles may we not apprehend, if the Spaniards on their right, and Gt. Britain on their left, instead of throwing stumbling blocks in their way as they now do, should hold out lures for their trade and alliance. What, when they get strength, which will be sooner than most people conceive . . . will be the consequence of their having formed close connexions with both, or either of those powers in a commercial way? It needs not, in my opinion, the gift of prophecy to foretell.

> The Western settlers, (I speak now from my own observation) stand as it were upon a pivot; the touch of a feather, would turn them any way.[10]

What made the difference, what completely turned the situation around, was the passage of the Northwest Ordinance. Now the West knew that Congress had a policy with respect to the territories and that that policy meant colonial rule until such time as the settlers were prepared to take their place as co-equals with the other states in the Union. The United States would expand, not as an empire with subject peoples and territory but by the addition of new, sovereign states; and these states, in the words of the Ordinance, would be "on an equal footing with the original States in all respects whatsoever."

It was a new concept of Union. No longer was the United States a static collection of independent states quarreling among themselves over vested rights. This new concept was a dynamic expression of an expanding country controlled by a central government in which new states would be added to the Union by its authority and action. Control remained at the center and thereby strengthened the national government; and all the states were absolutely equal, no matter when—how early or late—they entered the Union.

Not that the Ordinance ended conspiracy and intrigue or the dreams of empire these "robbing, drinking, brawling, browbeating monsters" constantly harbored. The peculiar conditions of western life invited reckless and desperate schemers, and their wild plans continued into the nineteenth century: for example, Citizen Edmund Charles Genêt fomented western hatred of the Spanish; George Rogers Clark organized an expedition to seize the entire length of the Mississippi; Senator William Blount was expelled from the United States Senate because he tried to induce England to send an army from Canada to Louisiana and the Floridas by way of Lake Michigan and the Mississippi; and, of course, there was James Wilkinson and Aaron Burr. Burr not only involved Wilkinson in his schemes but Jackson as well. And Henry Clay of Kentucky acted as Burr's counsel when Burr was hauled before a grand jury on charges of raising troops for illegal purposes. What daring empire builders these "browbeating monsters" were!

In Tennessee they trifled with treason and used the threat of secession to force North Carolina first into ceding her western lands and then into ratifying the Constitution. Even so, when the Southwest Territory was finally established, these Tennesseans were still not satisfied because the Northwest Ordinance (which was applied to them with some modification) denied them home rule. They wanted their own territorial legislature and then statehood as quickly as possible. What attracted them, of course, as it did most other westerners, was the new concept of Union as advanced by the Northwest Ordinance, which granted them equality and full status as a sovereign state once they had completed the three stages. The inevitability of statehood was clear to them, and that made all the difference in the world. The Northwest Ordinance also provided (necessarily) a strengthened central government that would soon win them, first, access to, and then, ownership of, the Mississippi valley and its mouth at New Orleans. This was not a concept of a Union indifferent to the needs of its newest partners; this Union, in the words of Peter S. Onuf, became the "guarantor of collective interests."[11] As such, it strengthened the Republic and provided the surest bulwark against those who would betray it or plunge it disastrously into empire building.

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[10] John C. Fitzpatrick, ed., *The Writings of George Washington from the Original Manuscript Sources, 1745–1799* (39 vols., Washington, D.C., 1933–1944), XXVII, 475.

The moment this new concept of Union occurred—that is, the moment the United States moved from a static American state system to a dynamic form that allowed for national expansion by the deliberate process of adding new states under the guidance of the central authority—in that moment the states having entered this Union no longer retained the right of secession. Or so Jackson argued. He strongly advocated states rights, and he always believed that this new and dynamic concept of Union in no way eliminated states rights; still, he maintained that secession as the right of any state to redress its grievances was forfeited even before the Constitution went into effect. Perhaps under the old static system secession was a legal instrument to protect state rights. Not so under the new system. And I think Jackson was right. Not that I care particularly about fixing an exact time when secession was lost to the states, but I frankly cannot think of a better moment.

It has generally been supposed that secession vanished as a right when this country became a Union of people, rather than a confederation of states. Perhaps. I am more inclined to accept the position that secession was lost when the *concept* of Union changed. And it visibly and perceptibly changed when eighteen relatively unknown and unaccomplished men enacted the Northwest Ordinance of 1787.

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[11] Peter S. Onuf, *The Origins of the Federal Republic: Jurisdictional Controversies in the United States, 1775–1787* (Philadelphia, 1983), 153.

A Country Open for Neighborhood

*Rowland Berthoff**

A historian who takes part in the celebration of a public anniversary risks the sort of situation in which Perry Miller, the great historian of New England Puritanism, found himself in 1948 at the tercentenary of the Cambridge Platform. The mayor of Cambridge extolled that Puritan code as the veritable fount of American democracy; Miller of course denied it was anything of the kind; and the mayor duly thanked him for affirming that it was. Whatever popular tradition the Northwest Ordinance enjoys today presumably has to do not only with democratic self-government but with a social democracy of self-reliant, egalitarian pioneer farmers living in a distinctively midwestern "open country neighborhood."[1] So it was commemorated in 1937 in the form of a procession of sesquicentennial oxcarts passing through my Ohio town.

Sober historians, however, as early as Jacob Burnet's recollected *Notes on the Early Settlement* in 1847 down through Frederick Merk's lectures that I attended at Harvard in 1947, have tended to dissent from this nostalgic tradition. Insofar as social democracy did eventually develop in the Old Northwest, it was due to subsequent amendment of the ordinances of the 1780s, especially to progressive easing of the original 640-acre minimum purchase in the Ordinance of 1785 to, by 1820, the 80 acres that an ordinary farmer could afford; to, still later, the Preemption Act of 1841 that gave the squatter first choice; and to the Homestead Act of 1862 that offered 160-acre farms free. Only thus gradually, in Burnet's traditional republican phrases, were "men of limited means" enabled to become "freeholders, and independent cultivators of their own domain, who, otherwise, must have been hirelings

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[1] Conrad M. Arensberg, "American Communities," *American Anthropologist*, LVII (December, 1955), 1154.

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to the wealthy, or have swelled the ranks of the idle and the dissipated"—the social policy that he believed ought to have been followed all along.[2] The Ordinance of 1787 was never amended so explicitly, and a generation ago the legal historian Francis S. Philbrick laboriously debunked it as not democratic at all, labeling it instead "a true colonial system" that permitted less self-government than under British rule before the Revolution.[3] And now Peter S. Onuf concludes that the two ordinances were little concerned with social arrangements, democratic or undemocratic, but rather with economic development of the West and with land sales as a steady source of revenue for the much-indebted federal government.[4] To the degree that Congress, then or later, did address itself to social ends, as Mary E. Young has observed, it equated "the disposal of land to small holders with settlement, and settlement with development."[5] Social policy was merged into economic policy.

And yet however ill-founded in fact the popular sense of the ordinances of the 1780s may be, that sense itself is a historical reality. It is above all a tradition of family farms and independent small businesses, a tradition which is still compelling enough to command special subsidies, tax advantages, and exemption from foreclosure for their proprietors—even benefit pop-music concerts like those in aid of starving African children. Because it is a libertarian tradition, Americans are apt to think first, when the Ordinance of 1787 comes to mind, of its final clause, which forthrightly (it seemed) prohibited slavery everywhere northwest of the Ohio—a clause so unlike the compromises and euphemisms in the Constitution that was also drafted in the summer of 1787. And the opening clause, though less often remarked upon, was no less remarkable, prescribing as it did equal inheritance by all siblings, daughters as well as sons. For whatever reason, the place of the ordinances of the 1780s in the national tradition may be as significant as all the factual niggling by historians.

So deep-running a tradition certainly calls for more detailed research—which, however, it is only beginning to get. Instead of a microscopic view, what I can offer runs to the telescopic, the longest possible setting in time and space, beginning with the remotest possible origins of the tradition. This view goes back not just to 1620 or 1607 but some thousands of years, literally beyond tradition to that time so immemorial that even the memory of the folk runneth not, to the long-forgotten but recently unearthed era of the first agricultural settlement of northern Europe, especially, of course, of Britain. An American historian will be struck by prefigurings of, if not exactly precedents for, settlement of the Old Northwest. Archaeologists detect that the pre-Celtic aboriginals, two or three millennia B.C., carried out the first clearance of the forest cover in long rectangular swathes, regularly oriented northwest to southeast, doggedly crossing streams and otherwise ignoring topography, roughly in the manner of the federal survey system of 1785 which nineteenth century European critics thought so unnatural. These clearances seem to have provided a "planned framework within which individual fields were laid out"—small square fields of less than an acre, the sort that farmers continued to use through the Celtic and Roman eras and the first several hundred years of Anglo-Saxon occupation.[6] As the archaeologist P. J. Fowler observes, "fields in later prehistoric southern Britain . . . were generally rectangular in shape, whatever the geology, with a tendency towards squarishness."[7] The similarity to the later American pattern is not surprising if, as the geographer Hildegarde Binder Johnson says of "colonial settlement patterns of western and non-western . . . societies" alike, "planners resort to rectangularity all over the world."[8] Certainly right-angled grids were no latter-day invention of William Penn for laying out Philadelphia between its parallel rivers, as historians of Roman and medieval city planning have shown.[9] The square-headedness of the human mentality evidently penetrates a good many archaeological levels below that eighteenth century Enlightenment rationality sometimes associated with the Land Ordinance of 1785.

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[2] Jacob Burnet, *Notes on the Early Settlement of the North-Western Territory* (Cincinnati, 1847), 395-96.

[3] Francis S. Philbrick, ed., *The Laws of Illinois Territory, 1809–1818* (*Collections of the Illinois State Historical Library*, Vol. XXV; Springfield, 1950), ccclvii.

[4] Peter S. Onuf, *Statehood and Union: A History of the Northwest Ordinance* (Bloomington, 1987), *passim.* See also Thomas LeDuc, "History and Appraisal of U.S. Land Policy to 1860," in *Land Use Policy and Problems in the United States*, ed. Howard W. Ottoson (Lincoln, Nebr., 1963), 3-27.

[5] Mary E. Young, "Congress Looks West: Liberal Ideology and Public Land Policy in the Nineteenth Century," in *The Frontier in American Development: Essays in Honor of Paul Wallace Gates*, ed. David M. Ellis (Ithaca, N.Y., 1969), 77.

The whole picture of prehistoric Britain now looks oddly familiar: "an enormous effort," Fowler concludes, "by a few million people during the last two millennia BC to bring large tracts of country under systematic control, not only on the grand scale with their field systems, but also in the detail of many thousands of kilometres of field boundary, every single centimetre of which was constructed in a variety of ways from an imaginary line to major bank and ditch."[10] Ages passed, however, before this landscape emerged into recorded history, and "a thousand years and more of illiterate farming is bound to have blurred the original arrangements," blurred them even beyond the reach of folk tradition.[11] By the High Middle Ages the typical English landscape had rounded off the corners and bent the lines to fit the natural topography. Adjacent villages typically lay, more or less parallel to each other, across a stream valley, from one height of land to the one opposite—rather like the "crests and divides" pattern in the presurvey French townships of Wisconsin.[12] The prehistoric pace of settlement and modification of course was speeded up by many times in the Old Northwest. Already, Johnson detects, the terminology, at least, of the rectangular survey system of 1785 is fading from colloquial Wisconsin speech in favor of more "natural" descriptions of farmland.[13] Perhaps someday those squares too will have to be rediscovered by archaeologists.

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[6] P. J. Fowler, "Later Prehistory," in *The Agrarian History of England and Wales: Vol. I, part 1, Prehistory*, ed. Stuart Piggott (Cambridge, England, 1981), 155.

[7] *Ibid.*, 157-58.

[8] Hildegarde Binder Johnson, *Order Upon the Land: The U. S. Rectangular Land Survey and the Upper Mississippi Country* (New York, 1976), 219.

[9] Maurice Beresford, *New Towns of the Middle Ages: Town Plantation in England, Wales and Gascony* (London, 1967), 142-54.

There are other strikingly familiar touches in the prehistoric settlement of Britain. Trees were cleared by the slash-and-burn method of girdling and burning and then scratch-plowing around the stumps until the seasons rotted them away—that same laborsaving but prodigally wasteful *Brandwirtschaft* which in nineteenth century America shocked so many observers used to the long since tidied-up landscapes of Europe. It was a slow process even so—perhaps a third of a square mile, about two hundred acres, could be cleared by a family in the course of one hundred years. Sometimes the farmer's task was eased by already existing clearances, the product, as in North America, of fires set by the previous population of hunters, the first postglacial inhabitants of 5000–4000 B.C.[14]

Archaeology tells us next to nothing, however, about prehistoric social relations. The little that can be inferred again prefigures the Old Northwest. As Stuart Piggott has observed, "in *no* instance have the exiguous remains recovered in Britain been capable of interpretation as centres larger than a farm or homestead," one, moreover, "of the 'natural' or 'nuclear' family type, conventionally set at about five persons. . . . The archaeological evidence, such as it is, favours a predominance of settlements of *Einzelhof* type over larger aggregations of village status."[15]

Although it is impossible to say that these were "family farmers" of the later familiar sort, the evidence from Old English placenames tends to confirm the concept. A place whose name includes the suffix "ing"—Birmingham, Washington—must have been settled, it used to be thought, by an Anglo-Saxon war band, the first part of the placename commemorating its chieftain. That would make them communal settlements from the first. Now the eponymous Dark Age Beorma of Birmingham or Wassa of Washington appears, rather, to have been simply the head of the family which originally settled the farm or took it over from some Welsh predecessor, the Birmingas or Washingas being his proliferating descendents, real or nominal. The suffixes "ham" and, a bit later, "ton" were also first applied to individual farmsteads. "Ham" is cognate with the German *heim*, English "home," and Scots "hame"; "ton"—which later came to suggest a larger community, a town—was originally "tun," a farm, and in Scots still is "toun," as in the fermtoun or joint farm—of East New Jersey as well as Lowland Scotland.[16]

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[10] Fowler, "Later Prehistory," 161.

[11] *Ibid.*, 155.

[12] Johnson, *Order Upon the Land*, 117-18.

[13] *Ibid.*, 149-50.

[14] Stuart Piggott, "Early Prehistory," in Piggott, *Agrarian History of England and Wales*, I, part 1, pp. 38-42.

[15] *Ibid.*, 45-47.

Among all the regional and local permutations of medieval England that sort of farm persisted: perhaps half the rural population around 1300 were holders of the twelve-to-fifteen-acre half-virgate or yardland upon which a family could subsist.[17] In the most advanced villages of the Midlands at some point between 800 and 1300 each family's holding of little square fields was restructured—there is no record anywhere of this process of disenclosure to match the familiar one of enclosure later on—and reassigned into a home-lot in a nucleated village and "strips" (properly oxgangs or selions) in the surrounding open arable fields.[18] That mature agrarian system proved to be too advanced for the primitive settlements of colonial America, even in those New England townships where the first generation tried to transplant it. But some of the accompanying institutions of medieval farming society did persist in America, as late as the Old Northwest. Americans have always sensed, at least, that their tradition of local self-government had transatlantic roots—attributed a century ago to an Anglo-Saxon or a Germanic racial trait, though suppressed for some hundreds of years by Norman feudalism. But no such ethnic theory is required, as Warren Ault demonstrated more than twenty years ago: medieval English villagers, that is, the fifteen-acre smallholders among them, were regulating their own local affairs throughout the Middle Ages. Although most of them in most villages held their land from a lord of the manor, these neighbors devised their own bylaws or ordinances for their agriculture and herding. The consensus that was necessary for this self-government, especially in the cooperative open-field villages, was no doubt arrived at the more easily, in the High Middle Ages, because of the high degree of social homogeneity—ethnic, religious, cultural—at least in any one village by that time.[19]

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[16] Fowler, "Later Prehistory," 129; H. P. R. Finberg, "Anglo-Saxon England to 1042," in *Agrarian History of England and Wales:* Vol. I, part 2, *A.D. 43–1042*, ed. H. P. R. Finberg (Cambridge, England, 1972), 423-27; Ned C. Landsman, *Scotland and Its First American Colony, 1683–1765* (Princeton, N.J., 1985), 139-40.

[17] Edward Miller and John Hatcher, *Medieval England—Rural Society and Economic Change, 1086–1348* (London, 1978), 143-44.

[18] Trevor Rowley, ed., *The Origins of Open-Field Agriculture* (London, 1981), *passim*.

English medievalists have been interested in two other phenomena: first, the remarkably free local market for land and, second, the no less remarkably permissive customary pattern of inheritance. In both cases the practical degree of personal liberty quite belied the legal technicalities of manorial tenure with which medievalists used to be preoccupied. It turns out that law was one thing, local custom quite another.

The local land market—which consisted of one farmer's leasing odd acres from another, less often the sale of one family's entire farm to another—was determined by the ups and downs of individual and demographic circumstances, with little interference from the lord, the legal proprietor of the manor. As long as the lord was paid the fines due for such transfers, he seems (virtually everywhere that has been studied) to have found this open land market as much to his advantage as to his tenants'. The farmer's purpose in acquiring more land was not so much capitalistic—for the sake of accumulation and self-gentrification—as it was simply to pass on to one son (more if possible) the twelve to fifteen acres that would support the same self-reliant status that the father had held. Only when the agrarian system was thrown into disarray—by the plague in the late fourteenth century, ultimately by commercial modernization in the sixteenth and seventeenth centuries and after—did some farmers find the opportunity for capitalistic accumulation and aggrandizement.[20]

Inheritance likewise followed local custom, which varied from place to place but everywhere was far more liberal than seigniorial. Technically, a tenant holding reverted to the lord on the tenant's death, to be regranted to whomever the lord pleased; actually, the manor lord has yet to be discovered who did not customarily prefer, of course on payment of the usual fine, the son or sons or other relatives whom the deceased had named in his will. Sometimes, if the father lived long enough, he conveyed the farm before his death but stipulated a sort of retirement contract for his and his wife's maintenance as a condition of the son's holding the property. Daughters, and sons for whom there was not enough land for self-sustaining farms, received personal property or cash or the assurance of some such support by the heir to the land. The purpose of these inheritance customs was the same as that of the land market: to maintain, generation after generation, the family on its holding. As Cicely Howell has summed it up, for one Leicestershire village, the system "was expected to support all adult members [of a family], either by supplying each with a share of land where possible, or [as was more usual] by supporting one nuclear family and a number of celibate adults."[21] If all these practices foreshadowed the early days of the Old Northwest, so too, eventually, would the shift away from them in seventeenth century England. In social terms modernization involved no longer simply maintaining the family securely on its traditional land but instead seeking to acquire and accumulate capital as such—and much the same change occurred in the Old Northwest some two or three hundred years later.

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[19] Warren O. Ault, *Open-Field Husbandry and the Village Community: A Study of Agrarian By-Laws in Medieval England* (*Transactions of the American Philosophical Society*, New Ser., Volume LV, part 7, Philadelphia, 1965); Miller and Hatcher, *Medieval England*, 100-10.

[20] Cicely Howell, *Land, Family and Inheritance in Transition: Kibworth Harcourt, 1280–1700* (Cambridge, England, 1983), 237-70.

Between England and the Northwest, of course, lay colonial America in all its regional variety: the New England town, the open-country neighborhood of the Middle Colonies, and the farm and plantation variant of the latter in the South. For all the regional differences, there seems to have been a common underlying reason why the mass of English and other European settlers left the homeland: to escape the effect of modernization, whether actually at hand or only threatened, on their own social status. As the modern commercial economy grew, it offered less and less place for self-reliant smallholding farmers or independent master artisans, or for the traditional homogeneous community of such neighbors. Colonial emigration selected men and families of that middling rural sort out of the much broader social spectrum throughout the colonial era and indeed through the nineteeth century and into the twentieth. (If it be objected that by recent calculation many or most indentured servants and other poor immigrants were from a lower social status, it would be hard to demonstrate that they did not hope to gain, sometimes to regain, the middling level.) This perennial characteristic of American immigration must have accentuated in the United States a version of the traditional, premodern, quite archaic social mentality of the medieval villager. Perhaps it is this, more than anything else, that has, ironically, made America exceptional in the modern world.[22]

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[21] *Ibid.*, 269.

[22] Mildred Campbell, "Social Origins of Some Early Americans," in *Seventeenth-Century America: Essays in Colonial History*, ed. James Morton Smith (Chapel Hill, N.C., 1959), 71-86; James Horn, "Servant Emigration to the Chesapeake in the Seventeenth Century," in *The Chesapeake in the Seveneenth Century: Essays on Anglo-American Society*, ed. Thad W. Tate and David Ammerman (Chapel Hill, N.C., 1979), 56-65; David W. Galenson, *White Servitude in Colonial America: An Economic Analysis* (Cambridge, England, 1981), 49-50, 63.

The undeveloped colonial economic environment naturally favored the less highly developed forms of Old World local society—a throwback, so to speak, to the scattered farmsteads and crossroads hamlets of prehistoric or unimproved, uncommercial medieval society. Those early New England towns that deliberately laid out nucleated villages and open fields—too labor-intensive in the circumstances—soon reverted to the more primitive arrangements.[23] It took the noneconomic purposes of the Puritans to keep up New England's reputation for communal neighborliness—and so too the Quakers and German sectarians of the Middle Colonies. Elsewhere, something like the prehistoric settlement pattern prevailed from the start: open-country neighborhoods of detached family farmsteads—"plantations" of greater or smaller size—in a landscape of forests that the aboriginal hunting population had burned off only here and there. Since America reversed the mature European ratio of a short supply of land to an oversupply of labor, closely settled communities were neither required nor even possible. Even so, communities continued to be about as homogeneous as in the traditional Old World, especially in ethnic makeup: almost solidly English in New England and, with exceptions, the Chesapeake; either Dutch *or* English in rural New York, and also Lowland Scots in East Jersey; English, German, or Scotch-Irish in separate localities in Pennsylvania and its mid-eighteenth century spillover into the southern backcountry; something more of an amalgam, perhaps, among the English, French Protestants, Highland Scots, and others in the Carolinas and Georgia; and, in the Old Northwest, the Catholic French inhabitants of Vincennes, Kaskaskia, Cahokia, Prairie du Chien, and Detroit—though all the ethnic enclaves except the French Catholics were divided by religious schisms in the mid-eighteenth century.

And the social norm was still the self-reliant family farm. However many indentured servants and other poor newcomers failed to attain that ideal, most colonists did, whether they were, on the one hand, well-established freeholders—sons succeeding fathers—or, on the other, disreputable squatters trying to hold onto a piece of the public land. There has been a flood of historical research on colonial communities—happily no longer automatically condemned as antiquarian—which has moved (as in England) from questions of government, economy, and social structure to inheritance and the land market. In a pathbreaking new book Toby L. Ditz finds that inheritance in Connecticut was very much what it had been in Old England: the passing on of the family farm to at least one or two of the sons, more if each could be provided with enough land to support his own family. Under the "particularly hospitable [demographic] conditions" of early New England, "the desire to secure the independent status of as many children as possible" was often fulfilled. And, again as in England, a Connecticut daughter was customarily left not land but personal property to enhance her chance to become some independent farmer's wife. The father, who was much more likely to survive to retirement than in England, was the more certain to ensure his and his wife's comfortable old age by a very explicit contract when he turned over control of the property. The overall result for local society was "rough equality among new households, while overlapping rights [among siblings and their spouses] linked household to household" in a network of kinship within "stable rural communities organized by complex networks of exchange."[24]

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[23] David Grayson Allen, *In English Ways: The Movement of Societies and the Transferal of English Local Law and Custom to Massachusetts in the Seventeenth Century* (Chapel Hill, N.C., 1981), 213.

In Connecticut this customary pattern of inheritance persisted into the nineteenth century in spite of the progressive modernization—Yankeeization—that other recent historians have pointed out in the commercial economy. The contrast with the southern tidewater regions is striking: the mortality rate disrupted traditional family life among the malaria-defenseless newcomers to the southern tidewater in the seventeenth century, and the relatively enormous estates that some tobacco and then rice planters accumulated in the late seventeenth and early eighteenth centuries made them, and their pattern of inheritance, more like the English gentlemen farmers who were thriving in the early-modern commercial market than like their less fortunate neighbors whose smallholdings they often engrossed. As the Chesapeake demography stabilized in the eighteenth century, however, the family—indeed, great networks of kinfolk—recovered to something like the patriarchal norm of premodern England and New England.[25] In short, most parts of the country were coming out at a comparably old-fashioned social point. As James A. Henretta and others have argued, well into the nineteenth century "the [traditional] lineal family—not the [modern] conjugal unit and certainly not the unattached individual"—was still the ideal, if only because opportunity for "accumulative, acquisitive behavior" that might produce greater success was still limited.[26] Even speculation in real estate, which ordinary eighteenth century farmers as well as large investors dabbled in, in a vast speeding-up of the Old World local land market, aimed more at realizing traditional family goals than at amassing capital for modern entrepreneurial purposes.[27]

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[24] Toby L. Ditz, *Property and Kinship: Inheritance in Early Connecticut, 1750–1820* (Princeton, N.J., 1986), 75, 80, 159, *passim*.

[25] Allan Kulikoff, *Tobacco and Slaves: The Development of Southern Cultures in the Chesapeake, 1680–1800* (Chapel Hill, N.C., 1986), chapter 6.

[26] James A. Henretta, "Families and Farms: *Mentalité* in Pre-Industrial America," *William and Mary Quarterly*, 3rd ser., XXXV (January, 1978), 32; Ditz, *Property and Kinship*, 6.

From this standpoint the increasing regularity in the physical layout of new townships on the New England frontier and elsewhere in the eighteenth century—which has always been taken as an index of modernization (anticipating the Land Ordinance of 1785)—may instead be seen as another reversion to the primitive, even to the prehistoric. In the seventeenth century the usual metes-and-bounds fashion of setting the boundaries of farms and other local divisions—from this tree to that rock and along such and such a stream—conformed to the natural terrain almost as much as the highly developed English landscape to which the first settlers had been accustomed. The metes-and-bounds pattern has been called "a social phenomenon rather than a system of surveys."[28] By the 1730s, however, as Amelia C. Ford's lively little book related some eighty years ago, Massachusetts began to lay off new settlements in "rows of contiguous rectangular townships in advance of settlement"—though not yet oriented due north-south, east-west, nor "exactly six miles square."[29] After midcentury such surveys were common: the New Hampshire grants in Vermont; the Connecticut settlements on the disputed upper Susquehanna; a few places in New York, South Carolina, and elsewhere.[30] Scattered farmsteads in squared-off new settlements: how would the traditional family persist in this retreat to the primitive?

The size of land purchases that would be available turns the question in the opposite, modern direction. In 1774 the British government, as part of its stillborn attempt to reorganize colonial administration, adopted a general system of prior survey and land-office auctions of lots of from 100 to 1,000 acres. Although the Revolution intervened, independent Virginia stepped in with sale of 400-acre lots—much larger than the traditional 50-acre headrights that Thomas Jefferson proposed to *give* to landless families. If the sale of such large tracts was the "colossal mistake" that Thomas Perkins Abernethy called it—a failure to secure "diffusion of small landholdings among the people"—he, like Jefferson, was invoking an agrarian tradition closer to medieval custom than to modern practice.[31] The ordinances of the 1780s continued this oddly inegalitarian line of modernization. Were they then as undemocratic as Philbrick has charged and Onuf implied, as contrary, as Abernethy alleged, to the folk tradition of the family farm and to the homogeneous local community of such families, those social ideals with which the Northwest Ordinance of 1787 is popularly associated—and which still inspire celebration in 1987?

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[27] Henretta, "Families and Farms," 3-20.

[28] Norman J. W. Thrower, *Original Survey and Land Subdivision: A Comparative Study of the Form and Effect of Contrasting Cadastral Surveys* (Chicago, 1966), 4 n. 4.

[29] Amelia Clewley Ford, *Colonial Precedents of Our National Land System as It Existed in 1800* (Madison, 1910), 31.

[30] *Ibid.*, 35, 62.

[31] Thomas Perkins Abernethy, *Western Lands and the American Revolution* (New York, 1937), 100, 228.

Certainly the poor squatters, most of them Scotch-Irish from over the recently established western border of Pennsylvania, whom Army Ensign John Armstrong and his twenty soldiers forcibly evicted from their scattered settlements just inside the still unorganized territory in April, 1785, felt the new federal policy violated the family-community tradition. (They kept coming back.)[32] Under the Land Ordinance of 1785 the minimum size of lots for purchase—one square mile—was several times what an ordinary farmer needed or what a squatter could afford. As already noted, nineteenth century Congresses gradually moderated the terms of sale, and historians have agreed that the original terms, in order to raise revenue, had departed too far from the family-farm tradition of the prospective settlers.[33] As one agricultural historian has observed, "The young Nation parted at once with . . . the natural right of man to a fair allotment of whatever unused land he might find, and embraced the idea that the vacant lands in the west should be used as . . . a fund to extinguish the Nation's debts . . . ."[34] Onuf agrees: "the formulation of congressional land policy in 1784–1785 represented an effort to create a national market in western lands."[35] The need for revenue, acute as it was in the 1780s, also led Congress to rush to accept the wholesale bid of the New England investors in the Ohio Land Company for much of southeastern Ohio and of others for sizable chunks of the southwestern corner. Those projects were of the sort that speculators had been promoting on the colonial frontiers for forty years past.

Although the Ohio grants were, in effect, the last under the colonial land-granting system, the choice offered buyers by the Land Ordinance of 1785—if not a square-mile section, then a whole 36-square-mile township—was also far beyond the smallholder's traditional dream. One of George Washington's correspondents imagined that the *en bloc* townships would encourage whole "neighborhoods of the same religious sentiments [especially New Englanders] to confederate for the purpose of purchasing and settling together."[36] Washington himself favored such compact settlements, and one of the principal themes of debate over the ordinances of the 1780s was the classical fear that too large and scattered a society would be unhomogeneous and hence unrepublican.[37] That argument specifically pertained to the size of future *states*, but the concern for social homogeneity echoed the practical experience of most localities in both Europe and America as well as political theory. Unfortunately, even the New Englanders who were still thought of as group migrants *par excellence* had not actually been settling in that fashion for two or three generations, nor would many of them do so northwest of the Ohio. When groups did acquire western land, they were usually speculative investors, not communitarians. And they would sell to whoever would buy.

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[32] Charles A. Hanna, *Historical Collections of Harrison County, in the State of Ohio* . . . (New York, 1900), 46-53; Andrew R. L. Cayton, *The Frontier Republic: Ideology and Politics in the Ohio Country, 1780–1825* (Kent, Ohio, 1986), 9-11.

[33] Archer Butler Hulbert, ed., *Ohio in the Time of the Confederation* (Marietta, Ohio, 1918), 95-97, 103-109.

[34] Henry Tatter, "State and Federal Land Policy during the Confederation Period," *Agricultural History*, IX (October, 1935), 183.

[35] Onuf, *Statehood and Union*, 40.

If not homogeneous communities, then did the new system of survey and sale promote settlement by individual families of the traditional sort? Toward that end the minimum purchase was reduced, by 1820, to 80 acres from the original 640. On the other hand objections raised by practical agriculturists to the severely "rational" survey that so intrigued Jefferson and other enlightened minds—after all, a less abstract Virginian remarked, nature had created few parts of the country in squares—went almost entirely unheeded, then or later.[38] Prior survey was intended to enhance conveyancing, and square boundaries contributed to certainty of title—both of course of real use to buyer as well as seller—but they had little other use to farmers or communities of farmers. If, as the agricultural historian Thomas LeDuc argued, the poor man who hoped to become an independent farmer and respectable citizen needed *credit* more than anything, the four-year term for payment of the purchase price that was offered between 1800 and 1820 was too short—no credit at all was offered after 1820—and in any case federal *loans* to settlers, not simply delayed payment, would have served a positive social policy as well as, for that matter, the economic policy of rapid development of the West.[39]

But this is to get as far ahead of the story as the notion of a federal loan program would have been in nineteenth century America. To return to the ordinances of the 1780s: if they were indeed tilted toward economic rather than social ends, what is the explanation for the two clauses—those against slavery and for equal inheritance—that have cast much of the luster that makes this conference a celebration? Both were radically liberal departures. At the least, fully partible inheritance carried to its ultimate conclusion the direction in which provincial law had been moving; exclusion of slavery before settlement of the new territory would obviate there for all time the need to raise the question of its abolition, that question to which only a few of the old states had yet responded and which would eventually embroil them all in the Civil War.

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[36] Quoted in *ibid.*, 39.

[37] Robert F. Berkhofer, Jr., "Jefferson, the Ordinance of 1784, and the Origins of the American Territorial System," *William and Mary Quarterly*, 3rd ser., XXIX (April, 1972), 259.

[38] Ford, *Colonial Precedents*, 79-80.

[39] Thomas LeDuc, "Public Policy, Private Investment, and Land Use in American Agriculture, 1825–1875," *Agricultural History*, XXXVII (January, 1963), 7; LeDuc, "History and Appraisal of U.S. Land Policy," 10-11.

Although the symbolic value of these clauses is important, their practical effect has been questioned. The inheritance clause, like most probate law, ruled only where the property owner left no will; and of course the more property a man had, the likelier he was to make a will. Even as moral example to will makers, the principle of equal shares to all would be apt to prevail only as long as there was enough cheap land in a farmer's vicinity to enable him to provide each of his children a competence to support a family—a situation unlikely to outlast the first couple of generations in any one place.[40]

What the effect of the antislavery clause was expected to be has always defied explanation. Nathan Dane of Massachusetts, thinking it had as little chance of passage in 1787 as Jefferson's broader clause had had in 1784, introduced it at the last moment; whereupon, without debate, even the delegations from the southern states voted for it. Staughton Lynd has suggested various economic and political advantages that southerners may have foreseen in it. Onuf speculates that northerners, for their part, anticipated the link that settlement and commerce would in fact develop between a slave-free Northeast and Northwest. Paul Finkelman finds evidence for all such calculations quite ambiguous.[41]

Dare one suggest, given the later history of racial prejudice in the Old Northwest, even among free soilers, that to exclude slavery—and to send runaway slaves from the South back there, as the Ordinance of 1787 also specified—meant excluding blacks as such?[42] Was it an expression not only of genuine commitment to liberty among the proposers but also of the traditional value placed on homogeneity—cultural, ethnic, and certainly racial homogeneity? In 1787 southerners and northerners could still agree that they would have been happier, if perhaps poorer, if slavery—black slavery—had never been introduced into North America. The states—that is, the white citizens—that were quickest to abolish slavery after the Revolution were those with the fewest blacks. To exclude slavery from the new territories perhaps held out the prospect of excluding blacks almost altogether. The congressional delegates were as silent about that as about the other considerations that historians have suggested, but what is certain is that virtually no one in that age is known to have seen any positive social benefit in a biracial, that is, a radically *heterogeneous*, population. Thus Ohio, as a state, both endorsed the Ordinance's prohibition of slavery and expressed (as a historian summed it up eighty years ago) the general "contempt" for the "worthless character" of the "shiftless and dependent" blacks by requiring free Negroes to post bond and by excluding them from juries and schools.[43]

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[40] Jay A. Barrett, *Evolution of the Ordinance of 1787, With an Account of the Earlier Plans for the Government of the Northwest Territory* (New York, 1891), 43, 56-59.

[41] Staughton Lynd, *Class Conflict, Slavery, and the United States Constitution* (Indianapolis, 1967), 189-99; Peter S. Onuf, *The Origins of the Federal Republic: Jurisdictional Controversies in the United States, 1775–1787* (Philadelphia, 1983), 169; Paul Finkelman, "Slavery and the Northwest Ordinance: A Study in Ambiguity," *Journal of the Early Republic*, VI (Winter, 1986), 343-70. See also Barrett, *Evolution of the Ordinance of 1787*, 75-80.

[42] Leon F. Litwack, *North of Slavery: The Negro in the Free States, 1790–1860* (Chicago, 1961); Eugene H. Berwanger, *The Frontier Against Slavery: Western Anti-Negro Prejudice and the Slavery Extension Controversy* (Urbana, 1967), chapters 1-2.

The fate of the French villages of the Illinois country indicates the limit of Anglo-American tolerance even for white ethnic heterogeneity. Had British rule north of the Ohio developed as intended by the Quebec Act of 1774—so repugnant to Anglo-American patriots—the French inhabitants might have continued undisturbed in, among other idiosyncrasies, their exceedingly unsystematic custom of local magistrates' granting land in the common fields and in their still more casual, self-shredding recording of land titles. George Rogers Clark's conquest, in 1778–1779, left them under the not altogether salutary neglect of Virginia, which reaffirmed their rights but allowed the members of the local administrative court to grant large tracts of land to each other. Virginia again stipulated the inhabitants' rights when ceding the territory to the United States in 1784, but within three years the inhabitants of Vincennes (casually called "Post Vincents," "St. Vincent," and the like by Anglo-Americans) were complaining to Congress against the "long tale" of "distresses, oppressions, and calamities" suffered through the "unquenchable rapacity" of an "army of petty tyrants" and asking for secure possession of the thirty miles square that would allow them the "mere competency" that, in the traditional way, was all they claimed.[44] Although the Ordinance of 1787 confirmed "the laws and customs now in force among them relative to the descent and conveyance of property," and although Congress allotted four hundred acres to each family, by the time the territorial government investigated land claims in the mid–1790s it revealed what the iconoclastic Francis S. Philbrick has called "illegalities of stupendous extent—fraud, perjury, subornation, and forgery"—mainly by Americans who had been buying up claims on the cheap.[45]

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[43] Robert E. Chaddock, *Ohio Before 1850: A Study of the Early Influence of Pennsylvania and Southern Population in Ohio* (New York, 1908), 78-88.

[44] Clarence E. Carter, ed., *The Territorial Papers of the United States*: Vol. II, *The Territory Northwest of the River Ohio, 1787–1803* (Washington, D.C., 1934), 58-60.

There would be no French Illinois or Indiana. Of the eighty-nine persons holding, in 1788, the four hundred headrights granted at Cahokia, only twelve were French.[46] At the same time the 1,300 inhabitants about Vincennes were almost one-third Americans—from their surnames a Southern Upland blend of Anglo-Scotch-Irish, Germans, and Dutch—and their land grants were scattered throughout the district, not laid out in adjacent rows back from the river in the French manner.[47] Although as late as 1815 the population was described as including "many very respectable, intelligent French families in good circumstances"—on Sundays to be seen "coming in crowds from mass and hastening to the race course," ending the day with "dances and balls"—within another ten years a certain "coldness on the part of the Americans," a reaction to French over-friendliness to the Indians with whom they traded, led a number to move to St. Louis and other more congenial spots, their once neat, flower-gardened houses "out of repair, or shut up."[48] "The story," Philbrick concludes, "is essentially one of the clash of two noncoalescible cultures."[49]

The modern rationality of the ordinances of the 1780s would likewise subvert the traditional purposes, both familial and communal, of Anglo-American settlers. In a sense the ordinances enticed a population of would-be smallholders and republican citizens into what turned out to be the modern commercial world. Since they came as individual families, at the most in small groups of relatives and old neighbors, they would have to organize communities themselves.[50] Even the Connecticut settlers of the Western Reserve enjoyed no initial advantage—the opposite if anything. Connecticut sold the whole tract (a bit larger than the parent state) to thirty-five investors associated in the Connecticut Land Company, who retailed lots as small as fifty acres to prospective migrants—in Connecticut.[51] "Each family, or each little party," as local tradition remembered it, "fought its way through the wilderness along the township lines until it came to its assigned spot; and there, in the vast loneliness, perhaps fifteen or twenty miles from the nearest neighbors, it chopped out its own hole in the forest . . . ."[52] South of this New Connecticut the reputedly more individualistic Scotch-Irish were somewhat better favored, at least after 1800 as federal land offices were set up within the territory.

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[45] Francis S. Philbrick, *The Rise of the West, 1754–1830* (New York, 1965), 291.

[46] Clarence W. Alvord, *The Illinois Country, 1673–1818* (Chicago, 1965), 420.

[47] Leonard Lux, *The Vincennes Donation Lands* (Indianapolis, 1949), 438-40.

[48] *The Diaries of Donald Macdonald, 1824–1826* (*Indiana Historical Society Publications*, Vol. XIV, No. 2; Indianapolis, 1942), 272, 281.

[49] Francis S. Philbrick, ed., *The Laws of Indiana Territory, 1801–1809* (*Collections of the Illinois State Historical Library*, Vol. XXI; Springfield, 1930), ccxii. See also Ronald P. Formisano, *The Birth of Mass Political Parties: Michigan, 1827–1861* (Princeton, N.J., 1971), 174-79.

[50] Convincing examples of group settlement are few. See Lois Kimball Mathews, *The Expansion of New England: The Spread of New England Settlement and Institutions to the Mississippi River, 1620–1865* (New York, 1962), 197, 201-209, 211-14; William Vipond Pooley, *The Settlement of Illinois from 1830 to 1850* (Madison, 1908), 378; Malcolm J. Rohrbough, *The Trans-Appalachian Frontier: Peoples, Societies, and Institutions, 1775–1850* (New York, 1978), 141-42, 167-72; John Mack Faragher, *Sugar Creek: Life on the Illinois Prairie* (New Haven, 1986), 56.

As long as historians evaluated community as the sum of individual successes, they seldom asked whether the abstract rationality of the ordinances fostered or impeded community. The Old Northwest seemed the quintessential home of democratic, egalitarian community, almost its birthplace (as it was the birthplace of Frederick Jackson Turner), where settlements were united, not divided, by their common individualism. Until recently only one major contrary tendency was recognized: the scope which the absence of any limit to large-scale land speculation opened to profiteering. "By 1855," Paul W. Gates has pointed out, "all the public land in Indiana had been disposed of and yet [because so much of it was held by speculators] vast stretches of the state were totally unimproved."[53] The resulting gaps between and within townships, on the Indiana and Illinois prairies in particular, somewhat delayed communal development.

Ordinary farmers were also free to buy land beyond their farming needs; such investment evidently seemed less contradictory to them than to the mid-twentieth century historians who discovered they had done so much of it. Even the clubs that some squatters organized after the 1830s to protect their claim to land they could not afford to buy now seem, in Allan G. Bogue's words, to have been "a means of protecting [their speculative] trade in claims rather than [as they asserted] a device to protect the home from the speculator . . . ."[54] That confusion between home and investment came, however, at a fairly late date in the settlement of the Old Northwest, when the old values had begun to change.

Before 1840, among the still mainly Southern Upland population of the region, self-seeking enterprise was tempered, as R. Carlyle Buley presented it in his classic study, by the neighborly cooperation of log-rollings, barn-raisings, and husking bees. (Frank L. Owsley painted much the same picture of the same sort of people in the contemporary Old Southwest.)[55] Such impressions seemed confirmed by the first of the quantitative local studies, Merle Curti's analysis of settlement of a Wisconsin county after 1850. Curti concluded that since the mixed Yankee and foreign settlers were generally successful in attaining farm ownership, they did constitute the democratic community—politically active, economically relatively equal, and socially cooperative—of the frontier tradition. The individualistic urge to acquire land was apparently quite compatible with egalitarian community; if anything, it was its essence.[56]

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[51] Harriet Taylor Upton, *History of the Western Reserve* (3 vols., Chicago, 1910), I, 10-11; Richard J. Purcell, *Connecticut in Transition, 1775–1815* (Middletown, Conn., 1963), 98.

[52] Harlan H. Hatcher, *The Western Reserve: The Story of New Connecticut in Ohio* (Indianapolis, 1949), 62.

[53] Paul W. Gates, *Landlords and Tenants on the Prairie Frontier: Studies in American Land Policy* (Ithaca, N.Y., 1973), 129.

[54] Allan G. Bogue, *From Prairie to Corn Belt: Farming on the Illinois and Iowa Prairies in the Nineteenth Century* (Chicago, 1963), 36.

Impediments to traditional community in the ordinances of the 1780s keep turning up, however. Some are odd but not entirely incidental. The first roads, which often followed Indian trails along the lie of the land—"angling" across the resolutely square sections of the federal survey—had to be relocated, as the sections were occupied, into the right-angled pattern that the present-day air traveler may still observe; sometimes one of the correction lines of the survey forced the road to follow a still more abrupt "offset." This seemed defensible to an engineer in the 1840s, who said that roads should be laid out "on mathematical . . . [not] on social principles." (From that point of view the mathematics of 1785 had been deficient only in leaving no space between the sections for roads, so that it had to be taken from the property owners on either side.)[57] In time, given the new engineering principles of the automobile age, many of the corners would have to be rounded off and the survey sections angled through again.

Profounder questions have been troubling historians recently, as they push the new local history from medieval and early-modern England and colonial America into the nineteenth century. Was acquisitive success really what settlers sought in the Old Northwest? If so, did they attain it, and when? What they sought was one thing, predictable enough, given what is now known of their ancestry. Most of them were, like former migrants, of a traditional mentality, concerned to "support by honest Industery," as a young New Englander expressed it on his way to Ohio in 1786, "that Independancy of Spirit and Circumstances which is requisite to Happiness."[58] Happiness meant, above all, the security of the traditional family, even as it cloned itself among the numerous sons of successive generations—too numerous for longer-settled places to contain.

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[55] R. Carlyle Buley, *The Old Northwest: Pioneer Period, 1815–1840* (2 vols., Indianapolis, 1950), I, chapters 4, 6; Frank Lawrence Owsley, *Plain Folk of the Old South* (Baton Rouge, 1949), chapter 3.

[56] Merle Curti, *The Making of an American Community: A Case Study of Democracy in a Frontier County* (Stanford, 1959), chapters 7-8, 10-11, conclusion. See also David Klingaman, "Individual Wealth in Ohio in 1860," in *Essays in Nineteenth Century Economic History: The Old Northwest*, ed. David C. Klingaman and Richard K. Vedder (Athens, Ohio, 1975), 182-83.

[57] Johnson, *Order Upon the Land*, 58, quotation p. 167; Faragher, *Sugar Creek*, 189.

By far the best available example of a rural community of families of that sort is the settlement along the Illinois Sugar Creek, a tributary of the Sangamon River, which John Mack Faragher traces from the dispossession of the Kickapoo in 1815 down to the second, Civil War-era generation. The Sugar Creek settlement became a remarkably organic community, in spite of its mixed Yankee, Southern Upland, and foreign population, bound together by a "web of common obligations" into "multiple structures—of association and collective action, of neighborhood and kinship, of belief and ritual," centering around mill and schoolhouse, working together on the township roads, herding livestock on the unclaimed public prairie, driving hogs or wagons to the Alton or St. Louis market. It took a mere twenty years, by Faragher's account, to transform "a collection of emigrant families into community, with all its attendant harmony and strife"—a community reminiscent of those of Toby Ditz's Connecticut and Cicely Howell's Leicestershire.[59] To be sure, it was a hard-headed, unsentimental sort of community where each farm or artisan family kept strict account of every pennyworth of goods and labor its neighbors owed it, not exactly the selfless, voluntary cooperators of the romantic tradition which previous historians have echoed. (As Faragher notes, Caroline Kirkland, on the Michigan frontier of the 1830s, knew well enough about this local system of " 'change," of poor people so reluctant to recognize any gratuitous help as never to say "thank you.")[60] But then, there is no evidence that traditional English or colonial neighbors had been any less hard-headed and unsentimental.

The Sugar Creek community was also limited—the same thing has been noted elsewhere—to a core of families within the larger local population at any one time, a minority who managed to take root and eventually to intermarry into a web of kinship, while transient individuals and rootless families came and went around them.[61] Even that core community was transitory. Along Sugar Creek by the 1850s railroads and commercial agriculture began to split this regrouped traditional community, this briefly renewed

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[58] Quoted in Hulbert, *Ohio in the Time of the Confederation*, 212.

[59] Faragher, *Sugar Creek*, 102-103, 129, 132, 136, 137-38, 150.

[60] *Ibid.*, 133-36; [Caroline Kirkland], *A New Home—Who'll Follow? or, Glimpses of Western Life* (New York, 1850), 290.

[61] Faragher, *Sugar Creek*, 145. See also Richard S. Alcorn, "Leadership and Stability in Mid-Nineteenth-Century America: A Case Study of an Illinois Town [Paris]," *Journal of American History*, LXI (December, 1974), 685-702.

"peasant utopia" of autonomous, neighborly near-equals, into modern economic classes—owner-operators, tenant farmers, and an incipient laboring proletariat. Much the same stages of development have been discovered elsewhere, earlier or later in the nineteenth century, among upland Georgia farmers and a wide variety of Missourians after the Civil War, republican-minded artisans in New York City before the war and in Cincinnati thereafter, as well as in a contemporary town some thirty miles from Sugar Creek, Jacksonville, Illinois. That sort of change has become a dominant theme of social history.[62] What the tradition-minded farmer or artisan had sought to escape, first in Europe, then in the East, was catching up with him—as it is still doing at every auction of a bankrupt farm today.

But the farmers and artisans were not simply victims. That the settlers themselves were bending tradition to fit modern circumstances is the burden of the most recent research (again following the English lead) into changing patterns of inheritance. Not only did ordinary western farmers treat land as a speculative commodity—"merely an article of trade," as Caroline Kirkland deplored it in Michigan.[63] Also, as Ditz finds in one of the more commercialized towns of Connecticut around 1820, farmers abandoned the custom of leaving one or more sons enough land for securely independent farms and only items of personal property to the excess sons and to daughters. "Productive property," she concludes, "was no longer used to set up directly some members of the next generation. It provided instead a head start in life . . . for *all* children," whether as farmers (perhaps somewhere else than the home farm), businessmen, or professionals.[64] This stage, which had taken eight hundred years to reach in England, took less than two hundred in Connecticut. It appeared on the frontier of the Old Northwest within fifty years after (though hardly because) fully partible inheritance was written into the Ordinance of 1787.

By the 1830s "the function of the family holding," as Susan E. Gray shows in her dissertation on certain pioneer Michigan counties, "was to generate capital"; no longer would "conferral of a landed patrimony . . . confer place in the social order, and . . . the rural community, under the impact of economic expansion and commercialization, ceased to be the fundamental social reality."[65] That was what had disconcerted Kirkland about Michigan farmers who boasted of mere accumulation—of having "four times as much land as we ever should have owned in York state."[66] Most of them were still farmers and heads of families, but no longer of the traditional family farm; it had been modernized, in Gray's words, into "a mutual self-help association" whose members, in their individual zeal for accumulating capital, forgot the old joint concern for the lineal family persisting on its land from generation to generation, to preserve which they had come to America and now to the territory northwest of the River Ohio.[67] The Old Northwest marks the metamorphosis from traditional to modern. For a time in Ohio, Indiana, and Illinois, despite whatever the Northwest ordinances lacked in social policy, the settlers may be said to have realized the age-old traditions of family and community (though urban, commercial places, like Jacksonville, Illinois, were modern almost from the outset). By the latter half of the age of rural northwestern settlement, however, as Michigan and Wisconsin were occupied, tradition no longer described reality. Americans have been straining ever since to think of commercial agriculture in terms of the family farm.

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[62] Faragher, *Sugar Creek*, part 5; Steven Hahn, *The Roots of Southern Populism: Yeoman Farmers and the Transformation of the Georgia Upcountry, 1850–1890* (New York, 1983); David Thelen, *Paths of Resistance: Tradition and Dignity in Industrializing Missouri* (New York, 1986); Sean Wilentz, *Chants Democratic: New York City and the Rise of the American Working Class, 1788–1850* (New York, 1984); Steven J. Ross, *Workers on the Edge: Work, Leisure, and Politics in Industrializing Cincinnati, 1788–1890* (New York, 1985); Don Harrison Doyle, *The Social Order of a Frontier Community: Jacksonville, Illinois, 1825–70* (Urbana, 1978).

[63] Kirkland, *A New Home*, 36.

[64] Ditz, *Property and Kinship*, 76, 116, 136.

What, then, does this celebration of the ordinances of the 1780s commemorate? Were these documents only a program for opening this vast new land to easy acquisition and capital-accumulation? If so, they subverted the ancient ideal of self-reliant families in homogeneous community, to preserve which so many men and women had come. And if there was some aspect of that social tradition that the ordinances did effectively preserve through the nineteenth century, it was what was coming to stand for social homogeneity—not ethnic homogeneity, since no limit was set on who, native or foreign, might come, and not economic classlessness, since men were free to make what they could of their opportunities—but white racial homogeneity. If the antislavery clause of 1787 ensured anything, it was—in spite of Governor Arthur Sinclair's loose interpretation of it in the 1790s and efforts in Indiana after 1800 and Illinois after 1820 to circumvent it—that there would be few blacks in the Old Northwest until the mass migration out of the South in the twentieth century. From the present-day pluralist point of view, a curious thing to celebrate.

Or should Americans celebrate, candidly, that this was a forward-looking pair of ordinances, anticipating the modern capitalistic world of commercial farming and industrial manufacturing that was sure to come in the Old Northwest as it had in England and was about to come in the East? There is, from that point of view, a notable contrast between the Northwest Ordinance and the Constitution, insofar as the Constitution was designed on classical republican lines, in the same year of 1787, to maintain antique civic virtue in static equilibrium, and was anachronistically fastened onto what was shortly to become a dynamic modern economy and world power. Perhaps the old Congress of the Confederation, that "somewhat quiet and peaceable company of men" who were still on hand in New York that summer, sometimes unable to muster a quorum while their better-remembered colleagues were off at the secret convention in Philadelphia, was the wiser of the two bodies.[68]

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[65] Susan E. Gray, "Family, Land, and Credit: Yankee Communities on the Michigan Frontier, 1830–1860" (Ph.D. dissertation, University of Chicago, 1985), 203.

[66] Kirkland, *A New Home*, 36.

[67] Gray, "Family, Land, and Credit," 204-205. See also Faragher, *Sugar Creek*, 99.

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[68] Barrett, *Evolution of the Ordinance of 1787*, 78; Lynd, *Class Conflict*, 187-88.

"A Freehold Estate Therein": The Ordinance of 1787 and the Public Domain

Malcolm J. Rohrbough[*]

The text for the relationship between the citizens of the Northwest Territory and the public domain was set by Sir William Blackstone. "There is nothing which so generally strikes the imagination and engages the affections of mankind," he wrote in his *Commentaries*, "as the right of property; or that sole and despotic dominion which one man claims and exercises over the external things of the world, to the total exclusion of the right of any other individual in the universe." Blackstone and later others accepted the idea that a "set of words upon parchment" should "convey dominion on land."[1] For the first Americans it did, and it still does.

From the opening of the seventeenth century to the middle of the nineteenth, land was a central theme in American life. For these two-and-one-half centuries, individuals and families in the colonies and later in the independent American nation sought to acquire it; investors (or speculators if you prefer) capitalized on its scarcity to make fortunes; society's values everywhere reflected its influence. Land was simultaneously a commodity and a value system. As a commodity it was symbolized by the search of generation after generation for a "freehold estate," the tangible form of permanent wealth that might be willed to subsequent generations, a universally acknowledged symbol in most communities of achievement and permanence. Land as value system meant a rural world in which land and land ownership were the dominant economic, social, and political values to which all aspired and in which ownership of land became a bench mark of status, whether in the colonies or, after 1776, in the new American nation.

From the beginning of settlement in the New World land was a multifaceted, complex business—as befits its significance. For over

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[1] Quoted in Vernon Carstensen, ed., *The Public Lands: Studies in the History of the Public Domain* (Madison, 1963), xiii.

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one hundred fifty years and across half a continent, politicians, military leaders, and bureaucrats in Whitehall established institutional forms to give structure and direction to the search for land and to govern its distribution: Indian treaties to extinguish the title of the original inhabitants; crown grants of land to individual court favorites or stock companies; activities by speculators and people of influence in the several colonies; acts and laws by Parliament to regulate land distribution; and numerous court decisions on the terms and circumstances under which land in the colonies might be acquired and sold.

In 1776 the new independent American nation took over many of these same forms, initially at least with the substantial confusion attending a revolution and the uncertainty associated with inexperience. Within this new proprietorship and responsibility the Ordinance of 1787, in conjunction with the Ordinance of 1785, represented a significant bench mark in the attempt of those who framed policy for the nation to affirm the importance of land in society and to establish the principles that would govern its acquisition by the government and its distribution to the citizens of the Republic. The Ordinance of 1787 also established a new framework of government for the West that reflected much about the influence of land in the colonial world.[2]

It is this old colonial world that first captures attention, for it provides a context within which to understand the significance and scope of the provisions of the Northwest Ordinance for government and for land distribution west of the mountains. What the Congress and its leaders did in the West reflected the experiences east of the mountains. The first Virginia colony brought together many of the features that would become associated with land in its many dimensions: a large stock company created for profit; the transition from corporate to individual land ownership; energetic pursuit of freehold estates. The results of these experiences were a dispersed, rural society. The development of tobacco culture as a commercial crop in Virginia and its rapid spread created a world with growing class distinctions based on land ownership that within two short generations had intensified the rural nature of this world and agrarian values. And these characteristics intensified with the addition of African slave labor. At the same time, stretching toward the West on every hand lay a forested expanse of unclaimed land to which the landless might have recourse in order to realize their own dreams of a freehold estate.[3]

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[2] The texts of the two ordinances with extensive editorial notes are in Clarence E. Carter, ed., *Territorial Papers of the United States*: Vol. II, *The Territory Northwest of the River Ohio, 1787–1803* (Washington, D.C., 1934), 12-18, 39-50.

[3] Charles S. Sydnor discusses the significance of land in the life of Colonial Virginia in *Gentlemen Freeholders: Political Practices in Washington's Virginia* (Chapel Hill, N.C., 1952).

The Virginia experience provided a basis of comparison for the people who followed. The first settlers of New England, who arrived soon after the Virginians, came from a cohesive group in English society, one with its own values and directions; but it, too, rapidly became a world associated with the possession of land. A community that spoke of itself as "a city on a hill" soon evolved into a series of villages, moving out in ever widening concentric circles into the wilderness. Land was the triggering impulse to settlement and, soon, to social and economic influence. While some land was held in common, substantial portions were parcelled out to the village families, in free tenure, as personal property, without obligations of continuing payment to a landlord and with no quit rents.

The distribution of lands in the early New England colonies was based on a desire for continuing community. The difficulty lay in the mechanisms that awarded some families more land than others and in the finite amount of available land. Eventually it was all given out. The solution was the founding of a new town on unclaimed—Indian claims were not considered real claims—lands, where the process of distribution could be repeated with different beneficiaries. During the last years of the seventeenth century the authority of Puritan leaders to control the acquisition and distribution of land gradually eroded. Lands in the Puritan domain became an investment opportunity as they had become in other colonies.[4]

Other systems of land allocation emerged in other colonies: the distribution of large tracts of land to favorites, a system that prevailed along the Hudson and Mohawk rivers where millions of acres of land were granted to men of influence; grants of princely domains to court favorites in the Carolinas, where speculators and settlers alike tried to emulate the Virginia model, and in some cases succeeded. Pennsylvania revealed still another kind of land policy in shaping a society. The proprietor, William Penn, decided to distribute lands widely and cheaply with a small annual quit rent. Thousands, eventually hundreds of thousands, accepted his offer and that of his heirs, although few paid the annual rent. The Penns wanted compact settlements, and they believed that their generous terms for distribution of land would allow them to set the settlement patterns of the colony. As a practical matter, the regulations were impossible to enforce and soon ignored.[5]

By the mid-eighteenth century, then, land had helped to shape several societies in the British colonies in North America, and, as a corollary, land speculation was big business involving prominent public figures in England and in the colonies at all levels of government. Much economic activity revolved around agriculture, and much large-scale investment was associated with lands. Furthermore, lands had become an important measure of social standing and political influence, for by tradition large land owning families were the most prominent socially and only those with landed estates could vote and hold office in most of the colonies.

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[4] Two useful studies for New England are Sumner Chilton Powell, *Puritan Village: The Formation of a New England Town* (Middletown, Conn., 1963) for the early period and Charles Grant, *Democracy in the Connecticut Frontier Town of Kent* (New York, 1961) for the later.

[5] Gary B. Nash, *Red, White, and Black: The Peoples of Early America* (Englewood Cliffs, N.J., 1974). Chapter 6 describes land questions in early Pennsylvania.

Throughout the colonies—on a lower level, far removed from the schemes of large landed entrepreneurs—there was another group with its ambitions linked to land: much of colonial life continued to revolve around the search for a "freehold estate." This was still the symbol of independence and standing in colonial life, the ultimate reward for those who had left the closed land system of the Old World for the universal opportunities for land ownership in the New. It was a search pursued from the stony hills of the New England upcountry to the tidal marshes of South Carolina. Indeed, by the middle of the eighteenth century this unending search was one of the common qualities that bound together colonies otherwise separated by much increasing diversity. The historian Wesley Frank Craven wrote of this world and this theme, "Surely, if there was one thing which bound the colonists together in a common experience, it was the necessity they found, most of them at least, to dig their livelihood out of the soil."[6]

Mixed in with the continuing search for lands was the astonishing growth of the colonies in the generation from 1730 to 1760. Accompanying this growth was an enlarged perception of the scarcity of land and the parallel rise in price and pressure to open up new land. For the first time some men began to talk and others scheme about opening the lands west of the Appalachians. With the higher prices more families settled illegally on lands—or squatted, as the term came to be used. And with growing illegal settlement came clashes with authorities. The argument appeared that these pioneer families by their presence risked their lives to provide a buffer between the established settlements and the hostile Indian tribes. For the squatters the result was a conflict with authorities and owners mixed with demands for compensation for their labors and special consideration in purchasing their lands at a favorable rate. These were all issues and attitudes that would emerge in vivid form in the Ohio Valley in the 1780s and across most of the trans-Appalachian frontier in the first half of the nineteenth century.[7]

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[6] Wesley Frank Craven, *Diversity and Unity—Two Themes in American History* (Princeton, N.J., 1964), 6.

[7] On the conflicts in the Ohio Valley see Malcolm J. Rohrbough, *The Land Office Business: The Settlement and Administration of American Public Lands, 1789–1837* (New York, 1968), 15-16.

The American Revolution did not represent a dramatic shift in the sense of priorities, for the changes that emerged did not lessen the importance of land within the several American societies but simply recast the rules for its acquisition and exploitation. The principles of the Revolution, no easy thing to define, may be summarized with respect to land in a negative way: that it was no crusade against private property. In its outbursts against those who were charged with having unfairly monopolized lands (such as the Penns) or in the urge to confiscate the property of loyalists, the revolutionaries confirmed the importance of land in American life, in this case, the life of the new, independent American nation. Presumably, the close of the Revolution simply set the stage for a resumption of the search for a "freehold estate," whether on a large scale by planters or speculators or on a more modest scale by individual pioneer families across the breadth of the colonies.

Even before the close of the war, the Congress of the Confederation had begun a long struggle to come to terms with the issues dividing the several states, of which one of the most prominent and bitter was that of the western lands. The legacy of colonial charters threatened to divide the states into two camps: those with great landed estates in the interior of the continent as a legacy of their charters, and those without such landed riches. The latter found themselves imprisoned on one side by the Atlantic Ocean and on the other by inflexible boundaries in such a way as to restrict their expansion and so, in a nation of landowners, their growth. In their own minds this restriction condemned them forever to second class status as partners in a shaky union of supposedly equal states.

The Congress of the Confederation moved to allay these concerns and give the nation a princely legacy by providing for the cession of these western claims. The resolution of October 10, 1780, laid out three principles: first, that the "unappropriated lands" of the states should be "ceded or relinquished"; second, that such cessions should be used "for the common benefit of the United States"; third, that the lands so settled shall be "formed into distinct republican states, which shall become members of the federal union, and have the same rights of sovereignty, freedom and independence, as the other states."[8]

Along with the struggle to establish a public domain, which proceeded by fits and starts until the cession of Virginia's claims in 1784 provided a crowning success, the Confederation Congress had to consider several other influences in dealing with the West in the 1780s. Some of these were long standing; others more immediate.

One of the long-standing issues was the attitude of responsible officials toward frontier people. It was assumed by those who made policy that the first inhabitants of the distant empire west of the mountains would be a peculiar breed of semicivilized, barbarous individuals and families who had long pioneered in the remote reaches of the forests. During the War of the Revolution the physical presence and fighting services of these families were welcomed as buffers against the Indian menace and the incursions of the Catholic French; in peace time their reputations were of a much different kind. Then they were known for their irresponsibility in economic matters, especially for fleeing debts and ignoring tax agents, for defying the collector of quit rents, for trespassing on private lands without payment or apology, for collectively defying the law and the courts, for disdaining the church and other "civilizing" influences. In the eyes of responsible, sober-minded observers, these people were barbarous and uncivilized. The most common analogy was to the Indian tribes with whom they shared the forest domain.

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[8] *Journals of the Continental Congress*, XVIII, 1780, p. 915.

It was these frontier people who formed the cast of characters in Conrad Richter's novel, *The Trees.* Richter's characters called themselves "woodsies," and their presence and character are important, for the Ordinance of 1787 had to come to terms with them. Of course, there would be appointed officials with great authority; but these frontier people would form the basis of the society that would emerge in the Old Northwest, and provision must be made to bring them by stages along the road to civilization and responsibility. And presumably by the time of statehood this first generation of frontier people would have recognized and come to respect the law and order in society, or alternatively, they would have been replaced by subsequent generations who would have these desirable characteristics.

To the character of the people in the West must be added the need to make provision for the orderly disposal of the new public domain and to do it before the pressure of population across the mountains became so large that it could not be controlled and directed. George Washington wrote of this rush to the West in 1784: "The spirit for emigration is great, people have got impatient, and tho' you cannot stop the road, it is yet in your power to mark the way; a little while and you will not be able to do either." Clashes had taken place between squatters on the northern side of the Ohio River and a detachment of the United States Army sent to remove them.[9]

Clearly the representatives of the Congress had to come to terms with the questions of land and government; the two were inexorably intertwined, for land would lead to immigration and immigration demanded a form of government. Thus, the Congress enacted two ordinances, the Ordinance of 1785 for the disposal of the public domain and the Ordinance of 1787, "An Ordinance for the Government of the Territory of the United States, Northwest-West of the River Ohio." Richard Henry Lee announced the adoption of the Northwest Ordinance to George Washington with an explicit reference to the connection between the two when he wrote that the Ordinance was enacted "preparatory to the sale of the lands. It seemed necessary, for the security of property among uninformed, and perhaps licentious people as the greater part of those who go to there are, that a strong toned government should exist, and the rights of property be clearly defined."[10]

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[9] George Washington to Richard Henry Lee, December 14, 1784, in *The Writings of George Washington . . .*, ed. John C. Fitzpatrick (39 vols., Washington, D.C., 1933–1944), XXVIII, 12.

There was a third consideration. The economic condition of the new, independent nation was weak. The states were struggling under substantial debts and burdened in many places by the spreading disease of paper money. The national government was without funds and without prospects except for the asset of the new public domain. This weakened financial condition helped to shape the time of the passage of the ordinances. Suffice it to say that the Congress of the Confederation had to keep two separate objects in mind: orderly provisions must be made for the sale of these public lands in order to realize a substantial revenue from them; and the public domain should be used to help shape a responsible and orderly society.[11]

What the Congress of the Confederation proposed in the Northwest Ordinance was a colonial system that raised awkward questions for a nation emerging from a colonial experience. But the colonial aspects of the system, e.g., the supreme authority of the governor and the weak and long-delayed voice of the elected legislature, were muted by a declaration of rights that preserved fundamental freedoms, including trial by jury, noninterference with religion, the right to bail, habeas corpus, and no cruel or unusual punishment. And finally, there was the ultimate prize: admission to the union of states on the basis of equality.[12]

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[10] Richard Henry Lee to George Washington, July 15, 1787, quoted in Paul Wallace Gates and Robert W. Swenson, *History of Public Land Law Development* (Washington, D.C., 1968), 72-73.

[11] Among the standard histories of the public domain are three volumes that represent the work of different generations: Thomas Donaldson, *The Public Domain: Its History with Statistics* (Washington, D.C., 1872); Roy M. Robbins, *Our Landed Heritage: The Public Domain, 1776–1936* (Princeton, N.J., 1942); and Gates and Swenson, *History of Public Land Law Development* (1968).

[12] The standard works on the territorial system are Jack Ericson Eblen, *The First and Second United States Empires: Governors and Territorial Government, 1784–1912* (Pittsburgh, 1968); John Porter Bloom, ed., *The American Territorial System* (Athens, Ohio, 1973); and several articles by Robert F. Berkhofer, Jr., especially "Jefferson, the Ordinance of 1784, and the Origins of the American Territorial System," *William and Mary Quarterly*, 3rd ser., XXIX (April, 1972), 231-62.

The specific provisions of the Northwest Ordinance relating to land and its distribution influenced the nature of the emerging western society and was in turn influenced by it. The first paragraph of the Ordinance was significant in this regard:

> Be it ordained by the authority aforesaid, that the estates both of resident and non resident proprietors in the said territory dying intestate shall descend to and be distributed among their children and the descendants of a deceased child in equal parts; the descendants of a deceased child or grand child to take the share of their deceased parent in equal parts among them; and where there shall be no children or descendants then in equal parts to the next of kin in equal degree—and among collaterals the children of a deceased brother or sister of the intestate shall have in equal parts among them their deceased parents share [& there shall in no case be a distinction between kindred of the whole & half blood] . . . .[13]

In this passage for "estate" read "land," for this was the most common article of property that might be willed to heirs. The Ordinance, even before enumerating the provisions of the government to be established (presumably its object), took up the question of the inheritance of estates. And what is the judgment? That the estates should be divided equally among all the children. The doctrine of primogeniture, the inheritance of the estate by the eldest in order to preserve the estate as a single economic unit, this legal and social device (and it was both) was ignored in favor of the doctrine of equality.

Next, the framers of the Ordinance enumerated the officials who would exercise almost dictatorial powers over the citizens of the new American empire—at least during the first formative years before any kind of popular representation. To the appointed governor went powers worthy of any British colonial administrator (whether in America, Australia, or India): to rule by decree; to serve as commander of the militia and appoint other militia officers up to and including the rank of colonel; to lay off counties and townships and appoint necessary officials; and to play a leading role (with three appointed judges) in selecting and publishing such laws as might fit the needs of the infant territory. And preceding this recitation of authority and responsibility was a statement of the governor's new position as landed aristocrat: "he shall reside in the district and have a free-hold estate therein, in one thousand acres of land while in the exercise of this office." For the secretary and the three territorial judges the freehold estate would be five hundred acres under the same terms and circumstances.[14]

The provisions for these landed estates were pointed reminders of the connection between a "freehold estate" and political and economic power. Here, as elsewhere in the American nation, land would symbolize the political, economic, and social standing of the estate owner; it would give the holder a vested interest in the life and property of the new western world, a landed estate to dilute the sense of an alien and arbitrary appointee arrived among the local citizens to command them in imperial fashion; it would provide a place where the governor could establish the kind of physical presence that would lend honor and authority to the office. And a thousand acres was a substantial estate in the view of the members of the Congress of the Confederation, albeit scarcely a pinpoint in the wilderness of the Territory Northwest of the Ohio.

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[13] Carter, *Territorial Papers*, II, 39-40.

[14] *Ibid.*, 41.

Other congressional actions at about the same time suggest both confusion and ambivalence about the estates of the appointed officials of the Northwest Territory. While on the one hand Congress endowed territorial officials with landed estates of five hundred and one thousand acres, with the other it sold landed estates of one-and-one-half millions of acres to a corporate entity known as the Ohio Company of Associates, another one-and-one-half million to the Scioto Company, and a third sale of one million acres to a New Jersey entrepreneur named John Cleves Symmes. In taking such action the Congress intended to fulfill another desirable quality of the Northwest Territory, namely to use its landed resources to relieve the financial embarrassments of the national government. Thus, almost simultaneously, the Northwest Ordinance gave its territorial officials a landed estate, and the officials found their estates dwarfed by estates offered to giant land companies and individual land speculators.

The sale of large tracts to land companies raised attendant issues that related to land in the Territory Northwest of the Ohio. The judges who accepted judicial office in the Northwest Territory, Samuel Holden Parsons, James Mitchell Varnum, and John Cleves Symmes himself, had substantial connection with land companies, so much so that in conjunction with the secretary, Winthrop Sargent, the territory was really ruled by a landed oligarchy. An ironic twist of the relationship between political and judicial authority on the one hand and land on the other was that the governor, Arthur St. Clair, who was to become the symbol of authoritarian (even tyrannical) rule, was probably the only person of rank in the territory who was not interested in estate building. As a military man and public servant—he had served a term as president of the Congress of the Confederation—he thought himself above such pedestrian money-grubbing activities. It is curious that his model as public servant and military leader, General George Washington, was actively involved in land speculation for many years. Washington always thought of the West in the most practical terms: as a place to make a fortune in land. St. Clair had a large landed estate in western Pennsylvania that he maintained during his tenure as governor and to which he retired when removed in 1802.[15]

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[15] Rohrbough, *Land Office Business*, 21-22.

Other political and economic leaders in the Northwest Territory did not share St. Clair's indifference to land and landed estates. Whatever their views on representative government and on executive and judicial authority, the most prominent political figures in the territory were large landholders. Foremost among them was Thomas Worthington, late of Virginia, who would become the leader of the opposition faction. Even as Worthington and St. Clair clashed over issues of representation, republican values, economic development, and executive authority, Worthington's large landed estate would sharply contrast with the governor's spartan lifestyle.[16]

Another aspect of the Ordinance that relates to the public domain was the issue of property qualifications for officeholders and voters. The Ordinance laid out three stages from territory to statehood. In the first stage the appointed governor ruled by decree. In the second stage, when the district had five thousand free male inhabitants over the age of twenty-one (presumably a category to assess the militia under arms), then "free male inhabitants . . . [might] elect representatives from their counties or townships to represent them in the general assembly . . . ."[17]

The Ordinance next established specific requirements for participation in this political process, either as voter or as officeholder. The document read:

> provided that no person be eligible or qualified to act as a representative unless he shall have been a citizen of one of the United States three years and be a resident in the district or unless he shall have resided in the district three years and in either case shall likewise hold in his own right in fee simple two hundred acres of land within the same; provided also that a freehold in fifty acres of land in the district . . . shall be necessary to qualify a man as an elector of a representative.[18]

These requirements looked back to a widely held principle of the colonial period, namely, that only property holders should stand for office and exercise the franchise, and the commonly accepted form of property to establish eligibility for political participation in society was landed property.

The property requirement stamped the Northwest Ordinance as a traditional document, traditional in the sense that it perpetuated landed property requirements of the colonial period. Although the reasoning is not specific here, the drafters of the document might have been swayed by the widely held views of the irresponsible character of the western people, those barbarians and savages (men and women) who lived across the mountains in a state of nature.

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[16] On the political conflicts in the Territory Northwest of the Ohio see Andrew R. L. Cayton, *The Frontier Republic: Ideology and Politics in the Ohio Country, 1780–1825* (Kent, Ohio, 1986), chapter 4.

[17] Carter, *Territorial Papers*, II, 44.

[18] *Ibid.*, 44.

That people lived in such circumstances, without respect for laws or courts or property, was not a recommendation to exercise the vote.

The practical results of this property requirement were not clear, but such qualifications surely reduced the numbers eligible to exercise the franchise, perhaps by as many as half. And aside from the issue of whether the requirement was stringently enforced, there was always the question of how the prospective voter came into possession of a freehold estate of fifty acres and could prove possession in such a manner as to satisfy the law. In the Territory Northwest of the Ohio settlers who proposed to purchase land might do so from one of the three private land companies or from the national government under terms laid down in the Ordinance of 1785. Titles from land companies were uncertain. This was especially so in the case of Symmes, a kind and good-hearted man who nonetheless sold much land to which he did not have clear title. Congress eventually passed a law to redress some of his worst lapses.[19]

In the case of the federal government the effective operation of the Ordinance of 1785, delayed at best, required much additional tinkering before an orderly system evolved under which settlers might find their way to a convenient land office and make practical arrangements under easily understood rules that would bring them a clear title. And when Governor St. Clair finally permitted the territory to move to the second stage of government, he had to modify the fifty-acre freehold requirement, for many frontiersmen did not hold a clear title to their lands. In the end St. Clair permitted adult males with town lots or houses worth fifty acres of land to exercise the franchise, but he upheld the principle of the Ordinance that property and the franchise went hand in hand.[20]

Finally, there was the question of the powers of the district, territory, and state (admitted under the provisions of the Ordinance) over the public lands. The Ordinance was quite precise about this question. After declaring that the legislature of the district might levy and collect taxes, the text continued:

> The Legislatures of those districts, or new States, shall never interfere with the primary disposal of the Soil by the United States in Congress Assembled, nor with any regulations Congress may find necessary for securing the title in such soil to the bonâ fide purchasers. No tax shall be imposed on lands the property of the United States; and in no case shall non Resident proprietors be taxed higher than Residents.[21]

It was a significant statement that touched several areas. To begin with, new states would enter the Union without their unsold lands, which would remain the property of the federal government. Thus, new states had achieved a measure of political equality with the old under the terms of the Ordinance, but even with statehood they were still at the mercy of the national government in the disposal of their lands. In short, the new states lost the right to make vital decisions about what might be a substantial portion of their own landed territory, areas that they might have offered at a reduced price or simply given away in the interest of putting settlers on the lands. This provision was a reaffirmation of the idea accepted as national policy, namely, that the public lands were a great national resource the sale of which would alleviate present debts and future expenditures. It was an attitude that persisted until well after the Civil War. The provisions that prohibited the states and territories from taxing the public domain was a further statement of this policy, one that enriched the nation at the expense of the new territory or state. And, finally, the declaration that nonresident proprietors might be taxed at no higher rate than residents confirmed the public domain as an investment for distant entrepreneurs.

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[19] Cayton, *Frontier Republic*, 61-63.

[20] Reginald Horsman, *The Frontier in the Formative Years, 1783–1815* (New York, 1970), 87-88.

[21] Carter, *Territorial Papers*, II, 47-48.

Taken together, these principles severely handicapped some of the first public land states such as Michigan and Arkansas where settlement was exceptionally slow because of their physical isolation off the routes of immigration and the greater attraction of public lands elsewhere. And this issue assumed something of a crisis proportion in the late nineteenth century, when the rise of the conservation movement led to the establishment in several western states of vast public reserves that could not be sold and, by thus restricting settlement and economic development, doomed these states to remain only partially settled. The modern antecedents of the hostility to this provision are alive in the "sage brush rebellion," a movement for the cession of the public land reserves to the states wherein they lie or, at the very least, the opening of these reserves for economic development.[22]

But these results lay in the future. In expectations and realities the Ordinance of 1787 (taken in conjunction with the Ordinance of 1785) opened opportunities for a "freehold estate" or economic opportunity to both settlers and speculators. Numerous families of this first generation of American independence pursued the "freehold estate" with the same intensity as had their parents and grandparents as the avenue to economic independence and social advantage. Later, their children would search for lands in Iowa and their grandchildren in Kansas and great-grandchildren in the lotteries of South Dakota in the twentieth century. The first experiences with land acquisition in the Territory Northwest of the Ohio offered a variety of terms and a wide range of settings. There were three land companies in the land business: the federal government, which merchandised lands in the Seven Ranges; the Connecticut Western Reserve in the far northeastern part of the territory; and the Virginia Military Tract in the central part of the territory stretching south to the Ohio. The Territory Northwest of the Ohio (later the state of Ohio) was a museum of schemes for land distribution. What the Northwest Ordinance gave to those settlers who wished to purchase was the assurance of a stable and orderly government, with townships and counties, set in the context of guarantees of certain fundamental rights such as habeas corpus and trial by jury. Finally, the provision for admission to the Union on the basis of equality meant that settlers would not be part of a permanent colonial system—although those who lived in the territories of New Mexico and Utah at the end of the nineteenth century could be pardoned for thinking their territorial status was a well-nigh permanent one.

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[22] Malcolm J. Rohrbough, *The Trans-Appalachian Frontier: People, Societies, and Institutions, 1775–1850* (New York, 1978), chapters 9, 11.

To speculators the Ordinance offered assurances through legal institutions for the safety of their investment and the prospect of security and growth to the settlers who purchased from them. For the entrepreneurs the western country in 1787 must have seemed a golden opportunity. When the American government had made good its claims of sovereignty against the English and quieted Indian claims, the opportunities for judicious investment stretched forth on every hand. For this group the "freehold estate" was an opportunity to make a fortune through investment. The Ordinance was a mark of government support in their enterprises.

Beyond settlers and speculators a third group demands attention. The American Indian might have found in the Ordinance a firebell in the night (to borrow Thomas Jefferson's phrase), for this document represented a statement of cultural confidence that assumed that the Indians would be brushed aside. In the aftermath of the American Revolution the Native Americans now found themselves enmeshed in the world of American legal doctrines. True, the Ordinance declared in its third article:

> the utmost good faith shall always be observed towards the Indians; their land and property shall never be taken from them without their consent; and in their property, rights and liberty, they never shall be invaded or disturbed, unless in just and lawful wars authorised by Congress; but laws founded in justice and humanity shall from time to time be made, for preventing wrongs being done to them, and for preserving peace and friendship with them.[23]

Yet the future outlined for them was a chilling one. The Ordinance was a blueprint for an American empire in the interior of the continent, a carpet of settlement and territories (later states) that would unroll from east to west. Indeed, the Ordinance was based on the premise of Anglo-American settlement in the interior of the continent. Whatever the pious declarations of the Ordinance, the assumptions were plainly laid out: it was that Americans would take the land and organize it according to the model described therein for the benefit of its citizens.

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[23] Carter, *Territorial Papers*, II, 47.

In looking forward from 1787 through the nineteenth century and into the twentieth at the relationship of the Northwest Ordinance to the public domain and the expansion of the American continental empire, two separate questions attract attention. The first is the influence of land and land titles in territories with substantial foreign antecedents. It is striking how many of these there are. For the first half of the nineteenth century Louisiana, Missouri, Michigan, and Florida can be counted, not to mention the residue of old French claims in Illinois and Indiana. It required years of work to sort out the validity of these foreign land grants, to balance justice against the clear examples of human greed, to try to bridge the confusion of different cultural and alien legal systems (in the case of the French and Spanish). In the Far West in the period after the Civil War, the territory of New Mexico was especially noteworthy for the systematic looting of its lands by public officials. This story is a reminder that the Ordinance became the law of the land for a variety of non-Anglo-American peoples, who had not read or who did not subscribe to the doctrines of Sir William Blackstone.[24]

In the final analysis the Northwest Ordinance established the ground rules for an American empire in the West. It was an empire based on land: land seized from the Indians, surveyed, and parcelled out to the citizens of the Republic, that they might learn responsibility through land ownership, that they might participate in the political process, that they might continue the search for a "freehold estate" that had occupied so much of their time since the opening of the seventeenth century.

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[24] Rohrbough, *Land Office Business*, 36-41, 161-68, 170.

Public Education in the Old Northwest: "Necessary to Good Government and the Happiness of Mankind"

*Carl F. Kaestle**

The Northwest ordinances have long been regarded as the founding documents of public education in the Old Northwest. Two clauses account for this reputation, one in the 1785 ordinance and the other in the 1787 ordinance. The first specified the ways in which the settlers should support education, and the second defined the purposes of education in a republic. The 1785 ordinance declared that one section in each township had to be set aside for the support of public schools. The land was to be rented to a settler, and the proceeds used to pay for schools. (Thus, the school lands were not necessarily the land on which the school was built.) The 1787 ordinance reinforced that commitment to education by including the now-famous clause explaining the purposes of education in the new territory: "Religion, morality and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged."[1]

These clauses have a time-honored place in books about the history of education. Ellwood P. Cubberley's immensely popular 1919 textbook quotes the 1787 clause and then explains: "This provision, and the ultimate settlement of the territory largely by people of New England stock, settled the future attitude as to public education" in the region. "These gifts by Congress . . . of national lands for the endowment of public education, though begun in large part as a land-selling proposition, helped greatly in the early days to create a sentiment for state schools . . . and did much to enable

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[1] Ordinance of 1787, Article 3, quoted in Fletcher H. Swift, *A History of Public Permanent Common School Funds in the United States, 1795–1905* (New York, 1911), 46.

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the new States to found state school systems instead of copying the parochial or charity schools of the older States to the east."[2]

When historians got down to the ground level and examined how the settlers managed the school lands, however, they found that the system did not work very well. Consequently, alongside the adoring references to the ordinances as the cornerstone of public education are seemingly contradictory accounts about their failure. There were several problems with the school land system. In an area of abundant cheap land there were few customers for rental property. At the outset the land was unimproved, so it was often rented at no charge simply on the agreement that the occupant would improve the land over the years. For example, a contract for the school land in Ames, Ohio, in 1801 specified that Hugh Boyle would have the land rent free for seven years on condition that he clear eighteen acres, including some for orchard, some for meadow, and some for pasture.[3] Such arrangements were often poorly enforced; much of the land went unrented; and territorial legislatures pressed Congress for permission to sell school lands instead of renting them. Congress granted such permission in 1826, but this procedure did not work much better than the rental system. Often the lands sold very cheaply, and the modest profits languished in state school funds that were prone to collapse in economic crises. These funds were also vulnerable to fraud and diversion, which occurred frequently in a region where people were starved for investment capital and eager to construct expensive canals and railroads.

As the echoes of the Northwest Ordinance's ringing statement about education became fainter, school advocates realized that the modest funds from the school lands would have little impact on local schools. In Ohio the legislature sold the school lands to the existing tenants at cheap rates and frequently forgave towns found guilty of misappropriating school funds. The exasperated state auditor said in 1843, "There seems to be no end to the plunder upon this fund."[4] A history of the school land grants written in 1885 cites embezzlements, hasty sales, illegal use of the funds to lessen taxation, bad investments, faulty and dishonest management, and public indifference as reasons for the paltry revenues of the school lands.[5] Some townships, of course, actually derived proceeds from the school lands and spent them for local schools, but the big story of the Northwest ordinances' education policy is one of continual neglect and misappropriation.

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[2] Ellwood P. Cubberley, *Public Education in the United States: A Study and Interpretation of American Educational History* (Boston, 1919), 59-61.

[3] Julia Perkins Cutler, *Life and Times of Ephraim Cutler Prepared from His Journals and Correspondence . . .* (Cincinnati, 1890), 45-47.

[4] Quoted in Howard C. Taylor, *The Educational Significance of the Early Federal Land Ordinances* (Columbia University Teachers College *Contributions to Education*, No. 118; New York, 1922), 95.

[5] George W. Knight, *History and Management of Federal Land Grants for Education in the Northwest Territory* (Papers of the American Historical Association, Vol. I, No. 3; New York, 1885), ii-iii, 162-65.

Thus the story begins with a seeming paradox: the education provisions of the Northwest ordinances were immensely important but had almost no effect on education in the Old Northwest. Traditional historians of education have argued in considerable detail, on the one hand, that the ideas of the Northwest ordinances provided the impetus for public education in the region and, on the other hand, that the particular system of support through school lands was bedeviled by indifference, fraud, and delay.

When writing about education and the Northwest ordinances, recent historians have reacted variously to these contrasting themes. Some, like Dennis Denenberg, writing in 1979, ignore the difficulties with the school lands and merely assert that the ordinances were immensely important and effective. Citing a 1916 textbook, Denenberg endorses the view that because of the Northwest ordinances "no other newly occupied country in the whole world's history has ever seen schools established so nearly coincident to the first settlements, nor schools of so high an order in so short a time."[6]

A more accurate and sophisticated view, one that could be called neotraditional, is held by David Tyack, Thomas James, and Aaron Benavot, who emphasize that Congress attempted to use land grants to support common public schools throughout the nineteenth century. Whether the system was effective or not in the early national period, Congress continued to use such leverage to try to persuade new states to provide elementary education. This common tactic reflected a consensus for widespread education that found its way into state constitutions. There were endless disagreements over *how* public schools should be provided, "but," say Tyack, James, and Benavot, "on the value of diffusing knowledge through public schools there was substantial agreement . . . ."[7] Tyack also emphasizes that after the Civil War the new territories of the Far West implemented the same system with a good deal more effectiveness, receiving as much as 10 percent of their local school monies from land-grant funds.[8] And surely a similar land-grant tactic worked even more successfully with the land-grant colleges.

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[6] Edwin G. Dexter, *A History of Education in the United States* (New York, 1906), 104, quoted in Dennis Denenberg, "The Missing Link: New England's Influence on Early National Educational Policies," *New England Quarterly*, LII (June, 1979), 233.

[7] David Tyack, Thomas James, and Aaron Benavot, *Law and the Shaping of Public Education, 1785–1954* (Madison, 1987), 29-30, quotation p. 29.

[8] David Tyack, "Forming Schools, Forming States: Education in a Nation of Republics," in *"Schools and the Means of Education Shall Be Forever Encouraged": A History of Education in the Old Northwest, 1787–1880*, ed. Paul H. Mattingly and Edward W. Stevens, Jr. (Athens, Ohio, 1987), 18.

Another historical point of view is provided by social historians, who try to get beyond the rhetoric of the ordinances to discover what kind of education was actually provided by families, local communities, and churches during the first three generations of settlement, when the land ordinances and other state efforts had very little effect. They turn to local records and memoirs to try to find out what schools were like, how they were supported, what was taught, and what the local participants thought about them.

There are, then, two histories of education in the Old Northwest, one about the gradual development of laws that provided free schools—that is, the political history of education—and the other about the actual education of children during the seventy years or so that passed without free public schools—that is, the social history of education. I would like to illustrate these two histories by looking briefly at six people who were involved in common school education, three advocates of state action and three teachers.

Manasseh Cutler of Massachusetts was a founder of the Ohio Company and its main agent to Congress in 1787. In the 1785 land ordinance proposed by Jefferson, Congress had already established the system of orderly, rectangular townships, with one section reserved for the support of education. This occurred before Cutler got involved, but the New Englander is widely credited with the statement about the purposes of education in the 1787 ordinance. Some historians view the education provisions of the Northwest ordinances as mere sales features, thrown in to attract potential buyers by a Congress eager to sell federal lands on the frontier, but Cutler illustrates the way in which those commercial motives were woven together with concerns about how to recreate republican society on the frontier. In addition to his activities on behalf of the Ohio Company, Cutler was a minister, a schoolteacher, a physician, and an amateur botanist. He was a capitalist and a scholar, a land speculator and a renaissance man, Massachusetts's answer to Benjamin Franklin. It is fair to say that the education clause was not mere window dressing to Cutler; he was not just a land speculator but also the keeper of an academy for boys in Ipswich, Massachusetts, and an assiduous member of the town's school inspection committee. As such, he was minutely involved in the evaluation of textbooks and the examination of teachers.[9]

It is not surprising, then, that Cutler, like Jefferson, saw an important role for education in the orderly settlement of the West and in the transplanting of republican politics across the Appalachians. One could not just send people into the wilderness; one had to send institutions, a government, a plan. As Cutler explained in his first sermon in Marietta, Ohio, in 1788, "an early attention to the instruction of youth is of the greatest importance to a new settlement. It will lay the foundations for a well regulated society. It is the only way to make subjects conform to its laws and regulations from principles of reason and custom rather than the fear of punishment."[10] As a scientist, Cutler also said that he welcomed "the opportunity of opening a new and unexplored region for the range of natural history, botany, and the medical science . . . ."[11]

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[9] William P. Cutler and Julia P. Cutler, *Life, Journals and Correspondence of Reverend Manasseh Cutler, LL.D.* . . . (2 vols., Cincinnati, 1888), I, 452-53.

Cutler embodies two tensions. First, the quest for private gain through speculation could conflict with the public interest in an expanding republic. Like many leaders of territorial expansion, however, Cutler saw private gain and the public interest as complementary. The leading landholders would serve the public interest by developing the region and by establishing necessary institutions. Second, Cutler's educational thought contained the contrasting ideals of liberty and order. Nonetheless, like many educational leaders of the Revolutionary generation, Cutler saw discipline and knowledge as prerequisites for virtue, and he believed that republicanism could only work in a nation of virtuous citizens. Although easterners shared a negative image of the brutalizing tendencies of the frontier, they also expressed, in theory at least, the optimistic vision of an unspoiled civilization starting over again in a new environment. Thus, Cutler ventured, "there will be an advantage which no other part of the earth can boast, and which probably will never occur again; that, in order to begin *right*, there will be no *wrong* habits to combat, and no inveterate systems to overturn—there is no rubbish to remove before laying the foundations."[12] Thus, it was extremely important to leap in and educate youth properly from the start.

It is interesting that Jefferson shares credit with Cutler for the education policy of the Northwest ordinances—Jefferson for creating the school lands and Cutler for stating the purposes of education—because, of course, although their politics differed in other regards, both men were prominent supporters of state involvement in common school education. Neither in Jefferson's Virginia nor in Cutler's Massachusetts, however, did state school systems gain much support in legislatures or among the public in the early national period. Nowhere in the East were common schools entirely free from tuition charges, and nowhere did state governments regulate local public schools. Thus, although the Northwest ordinances' school land scheme was based on the old English idea of devoting land rents to educational purposes, it was quite innovative in the context of American education because it suggested a strong role for the state. As in the East, however, state-sponsored free schools in the territories did not enjoy a very high priority, nor much success.[13]

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[10] *Ibid.*, 345.
[11] *Ibid.*, 346.
[12] *Ibid.*

Various leaders in the Northwest echoed the sentiments of Cutler and Jefferson, but their statements on behalf of education were often perfunctory or ignored. Rufus Putnam, one of the founding pioneers and a proprietor of the Ohio Company, complained in 1800 that there was "no public spirit to be found . . . except only in the proprietors of the Ohio Company"; and Thomas Worthington, author of Ohio's first constitution, warned that uneducated children would be "unable to manage with propriety, their private concerns, much less to take any part in the management of public affairs," because they would be "unacquainted with those religious and moral precepts and principles, without which they cannot be good citizens."[14] For most settlers, however, the impluse to promote common schools through state action did not have much urgency in the early decades. Indeed, it was widely resisted by settlers who had very little hard currency even in good times.[15]

Cutler's son Ephraim was a stalwart in promoting the cause of education in Ohio. He illustrates the frustrations as well as the accomplishments of the education crusaders among the first generation of settlers born in the region. His journal reflects firsthand experience at building the kind of communities his father had envisioned. He helped found Ames, Ohio, and he reported to his father that getting reliable, permanent settlers on plots in orderly towns and renting out the school lands was hard work.[16] Nonetheless, he said, "schools of an elevated character were soon established. In 1801, my cousin, Moses Everett, taught a school in a room in my house." Other teachers followed; most taught subscription schools, for which each inhabitant signed up to pay for as much education as they wanted or could afford for their children. A town library was developed, and Cutler declared optimistically that the young men educated under such circumstances "all have been useful and respectable citizens."[17] After the death of his first wife in 1807 Cutler remarried and settled in Warren, Ohio, where, from 1810 on, there was a subscription school and Sunday school. The schools were "liberally supported," according to Cutler, and were taught by men of "intelligence" and "good sense" or by women "both refined and cultivated."[18] In some communities, then, schools sprang up through local initiative, without dependence on any proceeds from the school lands.

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[13] Carl F. Kaestle, *Pillars of the Republic: Common Schools and American Society, 1780–1860* (New York, 1983), chapters 1, 7, 8.

[14] Quoted in Andrew R. L. Cayton, *The Frontier Republic: Ideology and Politics in the Ohio Country, 1780–1825* (Kent, Ohio, 1986), 142, 145.

[15] John Mack Faragher, *Sugar Creek: Life on the Illinois Prairie* (New Haven, Conn., 1986), chapter 11; Cayton, *Frontier Republic*, 142-46.

[16] Cutler, *Life and Times of Ephraim Cutler*, 48.

[17] *Ibid.*, 49, 51.

But not all communities had an Ephraim Cutler, or available schoolteachers, or sufficient population to support a school; and when Cutler joined with others to try to press school development throughout the territory, he ran into an endless string of obstacles. At first he was appointed one of seven commissioners of the school lands in the whole territory. These men started optimistically enough but found that rental arrangements were very irregular from one town to the next, and, in any case, profits were insufficient for any substantial support of common schools. By 1818 Ephraim Cutler was on a committee in the state legislature to devise a general school system, but efforts at reform resulted only in an ineffective, non-mandatory bill for common schools in 1821. Although there was resistance to taxation of individual property, reformers decided they had to move in that direction because, as Rufus Putnam wrote to Cutler in 1822, it had "been said again and again, that these public [school] lands were of no real value, that the time expended in legislating upon them cost the state more than they were worth."[19] Caleb Atwater complained that "scarcely a dollar" had been generated for schools, and an 1824 report to the legislature called the land-renting scheme "wholly unavailing."[20] After working to get a general property tax plan through the legislature in 1824, Cutler and Nathan Guilford managed to get a mandatory school law passed in 1825. It was imperfect and weak, but a start. Twenty-three years had elapsed since Ephraim Cutler had inserted his father's words about education into Ohio's first constitution. Standing next to Guilford in the legislature after the passage of the 1825 law, Cutler said, "Lord, now lettest thou thy servant depart in peace, according to thy word, for mine eyes have seen thy salvation."[21] But even this law had loopholes and went largely unenforced. It remained for reformers in the 1830s, 1840s, and 1850s to construct state laws that actually guaranteed the establishment of public schools in every part of the state.

The fate of the school land system was similar in other states of the territory, and legislation designed to create state systems of schools followed a similar pattern everywhere. First, there were half-hearted efforts to make the school land system work better, then permissive legislation encouraging towns to divide into districts and tax themselves for education, then weakly enforced mandatory systems, and then, in the 1840s and 1850s, as in the East, legislation that created somewhat more active state supervision and made free schooling mandatory, ending tuition charges to parents.[22]

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[18] *Ibid.*, 88-89.

[19] Rufus Putnam to Ephraim Cutler, December 23, 1822, in *ibid.*, 132.

[20] Quoted in Edward A. Miller, *The History of Educational Legislation in Ohio from 1803 to 1850* (Chicago, 1920), 66, 69.

[21] Quoted in William G. W. Lewis, *Biography of Samuel Lewis, First Superintendent of Common Schools for the State of Ohio* (Cincinnati, 1857), 103.

Caleb Mills of Indiana belongs to the generation of school reformers who forged these first state systems by persuading their legislatures to adopt mandatory property taxation for free common schooling and to appoint state school superintendents to recommend legislation and monitor educational developments. Like many of the school reformers of the 1840s, Mills was a minister by training, a New Englander by birth, and a Whig in politics. He was first sent to the West as a missionary for the American Sunday School Union. He moved to Indiana in 1833 and became professor of languages and head of the normal school at Wabash College in Crawfordsville. His campaign for an improved common school bill in Indiana began in 1846 when he wrote an open letter to the legislature bemoaning the high rate of illiteracy in the state and urging Indiana to adopt a tax-based free school system like those in New York, Ohio, and Michigan, which he held up as models. How much had Indiana taxed its people for schools, Mills asked; and he answered his own question, "I will state it in *round* numbers, $0.000.00."[23] There was resistance elsewhere to taxation for schooling, he argued, but legislatures went ahead anyway. If they waited for a "harmony of views and sentiments" among the voters, he said, they "would never effect anything great and noble."[24] Mills's letter was sent anonymously; he signed it only as "One of the People." Published in the newspapers at the same time that it was delivered to the legislature, the letter received much attention, but it got no immediate concrete results. Consequently, Mills submitted another anonymous letter the next year. In the meantime, activists in the cause of education began to hold annual conventions, which also pressured the legislature. The next General Assembly responded by putting the question to the people of the state in a referendum. About 56 percent of the voters favored a free school system. In 1848, in his third message to the legislature, Mills argued that many of the negative votes came from areas where residents were below the general average in adult literacy and thus probably did not understand the issue very well. This argument was typical of free-school advocates, who often denigrated the opposition as either ignorant or mean-spirited. Textbook writers took up this theme in the early twentieth century, portraying opponents of school reform in the 1840s and 1850s as selfish, bigoted, and undemocratic. Recently, however, a somewhat more sympathetic view of the opponents to free public schools has emerged. Some of the opposition may have resulted from simple unwillingness to pay taxes, but it must be remembered that most people at the time considered education to be the responsibility of parents, churches, and local town meetings. There was some opposition in principle to central authority. State-regulated, free public school systems did cost something in terms of diversity and local control, and some people in the nineteenth century could see it coming. (Personally, I believe that it was worth the price, on balance; but to read present-day policy preferences backward in time and to take sides in policy debates of over a century ago on the basis of today's values is to risk misunderstanding what was going on.)

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[22] Carl F. Kaestle, "The Development of Common School Systems in the States of the Old Northwest," in Mattingly and Stevens, "*Schools and the Means of Education*," 31-43.

[23] Charles W. Moores, *Caleb Mills and the Indiana School System* (*Indiana Historical Society Publications*, Vol. III, No. 6; Indianapolis, 1905), 363-638, quotation p. 408.

[24] *Ibid.*, 414.

The Indiana legislature responded to the narrow referendum victory for common schools with another weak law in 1849. Then, in 1852, after some more prodding by Mills and yet another statewide referendum, as well as a new constitution that mandated attention to education, legislators expanded and bolstered the education law, finally providing free schools supported by taxes and supervised by a state superintendent of schools. Mills even served as state superintendent of common schools from 1854 to 1857, only to see the state supreme court rule in 1854 that the property tax support for schools was unconstitutional. The taxing power was not restored until 1867. By then Mills had retired from the field, leaving further system-building to younger men, while he built up the library at Wabash College. One wonders whether he often recalled the remark he made in a letter in 1833, before he even moved to Indiana: "public sentiment must be changed in regard to free schools . . . . Though it is the work of years, yet it must and can be done."[25] Mills's career demonstrates the difficulty in devising a system to pay for public schools to replace the ineffective land grants of the Northwest ordinances. It took generations to overcome the pervasive resistance to state-sponsored schooling, and in this regard the Old Northwest was no different from the Northeast. Anyone who believes that opposition to publicly funded free schooling was found only among southerners and Catholics misunderstands the origins of public education. The controversy also involved fights between localists and centralists, between Democrats and Whigs, between egalitarians and pluralists. Eventually the people who shared Mills's ideas prevailed, but what was actually happening in education during all those decades while reformers were trying to establish state school systems?

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[25] Quoted in Joseph F. Tuttle, "Caleb Mills and the Indiana Common Schools," Paper read to Indiana Teachers' Association, December 31, 1879, in Moores, *Caleb Mills*, 382-83.

A look at the experiences of three frontier teachers helps to provide an answer.

Born in 1819 in upstate New York, Sarah Pratt and her five sisters got enough education in the local schools to become schoolteachers themselves. Their parents, though of modest means, valued education. When Pratt was twenty-five, she and her sister Susannah traveled to Wisconsin to spend some time with an older sister who had married and moved there. As it turned out, Pratt spent a few years in Wisconsin, teaching in neighborhood schools in order to support herself. She kept a diary, a transcript of which is in the Wisconsin State Historical Society in Madison. If one is interested in what went on inside district schoolhouses, one is struck by how little Sarah Pratt said about it in her diary. She wrote matter-of-factly about school from day to day—how many scholars showed up, when the weather interrupted, when inspectors came—but she displayed no anxiety about school and rarely elaborated on the details of her pedagogy or her relationships with students. She apparently took this part of her life for granted and wrote with more fervor about religion, loneliness, and natural beauty. Schooling on the frontier was a mundane activity, subject to cancellation due to the lack of a teacher, the illness of a teacher, bad weather, parents' lack of money, or parents' need for their children's labor—all of which Pratt recorded from time to time. She mentioned with pleasure visits by parents or her sister at her school, said she kept an extra spelling school after school or in the evening occasionally, and occasionally expressed her satisfaction with her students, usually near the beginning or end of a term. "I have an excellent school," she wrote in February, 1845. "They all strive to make me but little trouble and the progress they are making in their studies is a satisfaction to me as well as to their parents."[26] In June of 1847 she admitted that she thought she might be lonely in a new summer school situation with only twelve younger scholars: "I had fancied myself much loneliness in the employment this summer in teaching a school so small and not very far advanced in science. But I . . . think they progress fast and the anticipations that I have of seeing them finely advanced at the close of the term are quite pleasing to me."[27]

Pratt boarded around the district with parents who received free schooling for one child in return for her room and board. This made for a very transient existence, and Pratt often treated her school as a sort of home, writing letters there before school would start. Her diary makes it clear that she moved frequently and sometimes did not know on a given day where she would be staying the next night. Nonetheless, except for the long distance she sometimes had to walk to school, she made no complaints about the boarding arrangements.

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[26] Sarah Pratt diary, September, 1844, to September, 1847, typescript, p. 41 (Wisconsin State Historical Society Archives, Madison).

[27] *Ibid.*, 104.

Pratt's diary includes names of individual students who were out occasionally for illness or work. At one point no one showed up because of rain and mud; at another she dismissed her school because most of the students were out picking strawberries.[28] Still, there were two terms per year of several weeks each, one in summer and one in winter, and the attendance was generally good. Although Pratt wrote casually about teaching, it would seem that her presence on the Wisconsin frontier exposed her students to a fairly well educated young woman, gentle and concerned, a person who took great pleasure in reading herself and worked hard to be a competent teacher. In 1847 Sarah Pratt died in Wisconsin during a fever epidemic; thus she never returned to her native New York.

Mary Roper, another teacher who emigrated to the West, was part of an organized effort to civilize the frontier through training and exporting young women from New England to areas that needed district schoolteachers. Some residents of the Northwest welcomed this effort; others resented and resisted it. Roper unfortunately ran into lots of the folks who resisted. She was recruited and trained at Hartford, Connecticut, by the National Popular Education Board, a missionary group founded by Catharine Beecher in the 1840s. In 1852 she was assigned to Mill Point, Michigan, a community of four hundred composed largely of immigrants who worked at a steam mill. Roper wrote back to Hartford: "There are only four families in the place of intelligence. A few other families possess influence but are bad men." The town was divided, it seems. Some wanted another pious eastern teacher to replace the one they had had the previous year; but, commented Roper, "the other party said 'they had had a pious teacher long enough' . . . ." A rival school was begun, and, according to Roper, "a lady, destitute of religious principle was hired to teach the children of the dissatisfied ones." "No effort," she complained, "was left untried to injure my school. . . . They cautiously circulated suspicions of my good character," then, with more boldness, asserted "the most indecent stories." Furthermore, she stated, "Attempts have been made repeatedly upon members of my school, to induce them to find fault with school, and leave it for the other, but never have they in but one instance succeeded, and that was the case of two Dutch [German] boys of passionate tempers . . . [and] their absence was an advantage rather than a loss." She wrote of the support of a Mr. Smith, her patron on the school committee, and his efforts to fend off assaults on his own character. Nonetheless, she said, "I am firmly attached to my scholars, and I think I can say that they are to me."[29]

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[28] *Ibid.*, 62, 63.

By June of the following year, however, things had taken a turn for the worse. Roper's enrollment was down to half its original size, though the only fault she then said her opponents attributed to her was that she loved her scholars too much and hit them too little. Still, the opposition had become so "violent" that Mr. Smith decided not to hire her back, and, on top of that, her strength had been sapped by the ague. She wrote to her sponsors in Hartford for advice.[30] They apparently told her to give up and return to the East, because the next year, in July of 1854, she wrote from her home in Templeton, Massachusetts, saying "my health is now reestablished and my desire to be active somewhere brings home the question, where I can best labor?" She asked to be assigned again to the West.[31] Plucky and pious, Mary Roper was just what the National Popular Education Board wanted, and perhaps her next assignment was more successful. Unfortunately, she disappears from the record with this request that she be returned to the frontier.

Unlike Pratt and Roper, Rebecca Russel was born in the Northwest. A young Quaker woman whose diary is preserved in the Indiana Historical Society in Indianapolis, Russel attended common schools in West Newton, Indiana, until she was fourteen. She then enrolled at higher schools in Beech Grove, Valley Mills, and the preparatory department of Earlham College. After a year's teaching in Spring Valley, she taught a year in her home town of West Newton, where her father was a school trustee. It was during this year, 1860–1861, that she kept a diary, a diary that reveals much more about classroom practices than does Sarah Pratt's. Russel writes about guest lecturers, about the games the children played, about grammar seminars after regular school hours, about spelling bees, about parents at school exhibitions, and about her attempts to maintain discipline without corporal punishment—one of the reforms women helped bring to the district classrooms of America. Still, not all was harmony. One parent complained that his son was not learning anything. "Such things have always hurt my feelings," said Russel, "but I believe I have done my part."[32] Gentle discipline could have its ups and downs too. One boy was "affronted" at something her assistant said, and another girl stalked out of the room when Rebecca criticized her lack of studying.[33]

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[29] Mary Augusta Roper to the Committee for Selecting Teachers, Mill Point, Michigan, October 18, 1852, in *Women Teachers on the Frontier*, ed. Polly Welts Kaufman (New Haven, Conn., 1984), 161-62.

[30] Mary Augusta Roper to Nancy Swift, Mill Point, Michigan, June 10, 1853, in *ibid.*, 163.

[31] Mary Augusta Roper to Nancy Swift, Templeton, Massachusetts, July 22, 1854, in *ibid.*, 165.

By the time Russel taught, in the late 1850s, public schooling was somewhat more organized than in Pratt's day. Russel had to pass an examination to get a license. She recorded in her diary that the night before her examination she studied grammar, geography, arithmetic, and spelling and that her performance the next day was sufficient to qualify her for a two-year certificate. She had state-approved textbooks, such as McGuffey's *Reader, Webster's Dictionary*, and Mitchell's *Geography*. The early trappings of professionalization show up in her diary too. She subscribed to the *Indiana School Journal*, which in turn recommended such professional books as *The Teacher's Friend*, which she also read. And she was active in the local teachers' association, which met monthly and discussed such matters as discipline.

Russel had over sixty students, with an assistant to help while she listened to the recitations of groups in rapid succession: the "abecedarians" (as the beginning readers were called) and three higher reading groups, the four spelling classes, the grammar group, and three arithmetic groups, some of them more than once a day, adding up to twenty-three recitation meetings. Bible reading was also a regular part of her curriculum, although by 1860 many Quaker schools in Indiana had given up their practice of bringing all the students to a Quaker morning meeting in the middle of the week. Attendance at midweek religious services had been universal in many local schools organized in predominantly Quaker communities by the Quaker quarterly meetings earlier in the century. Even when they received public money, these local, religious, quasi-public schools required all their students to attend midweek Quaker meeting. The education law of 1834 explicitly recognized the legitimacy of state aid to such schools, endorsing the early nineteenth century approach to common schooling—more local, more diverse, without such a strong dividing line between public and private or between religious and nonreligious schools. By the 1860s most of these schools were controlled by public school trustees, and the practice of midweek services faded. But not the practice of Bible reading. Caleb Mills said that "the Bible is too deeply enthroned in the hearts of the people, to be excluded from our common schools."[34] As Rebecca Russel said one Sunday in her diary, "There is no class of persons who have more need to live a religious life than teachers. I thought while in Meeting today that if the teacher was a religious person his students would be so too in a greater or less degree."[35]

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[32] Rebecca Russel diary, June 13, 1861, typescript, vol. I, p. 107 (Indiana Historical Society, Indianapolis).

[33] *Ibid.*, May 28, 1861, vol. I, p. 102.

[34] Moores, *Caleb Mills*, 459.

By 1860, then, Rebecca Russel's school was emerging from its distinctive Quaker past and becoming part of the state network of public schools; it was funded partly by tax money raised by the town and partly by tuition payments subscribed by parents. Attendance was voluntary and control was largely local, but the school was being drawn into a rudimentary set of state regulations with county-level supervision. Thus, by 1860, the two strands of the history of education came together: the social history of local schooling came into real contact with the system that resulted from the political struggle to create and supervise free public schools. Seventy years after the Northwest ordinances the schemes of the educational reformers and the conduct of local schools began to intertwine.

What does the experience of these six people reveal about education in the Old Northwest? First, if historians of education are interested in how children got educated, they must move behind the political scene to the local level, where much education was going on that was neither inspired nor supported by the state. Second, because schooling was locally initiated and unregulated, it was very uneven. In some communities sparse population, poor resources, lack of leadership, or general indifference led to meager provision for schools. Elsewhere, local school development was quite impressive long before the state got into the act. Third, because the lines between public and private and between church and state were fuzzy, both in funding arrangements and in content, local schooling was quite diverse. All schools taught the three R's, but districts differed drastically, not only in the length of school terms, the qualifications of teachers, the quality of schoolhouses, and the number of students in the district school and in whether men or women were hired, but also in the treatment of religion and even in the use of foreign languages for instruction.

This diversity, unevenness, and lack of state supervision was not what had been envisioned by the education advocates of the 1790s—Jefferson or Cutler, for example—but it was what a majority of the people wanted. Local citizens fought to retain this unregulated diversity up through the 1840s and 1850s. Only then did the balance tip toward the advocates of regulation, state involvement, and fully tax-supported common schools. Because the Northwest ordinances provided some stirring language and a stab at systematic public support of schools, people often think that they laid down the basis for public education in the Northwest—and in a way, they did. The ordinances stated an ideal of education for orderly progress and responsible liberty, an ideal that presumed an activist government promoting popular education; they also provided a modicum of support through land grants, a system that reformers could bemoan, react against, and strive to improve.

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[35] Russel diary, July 28, 1861, vol. I, p. 117.

But the creation of state-regulated, free, public schools awaited more than a half-century of political and cultural developments, not just on the frontier but in the East as well. School supporters had to overcome opponents' indifference, parsimony, and preoccupation with other priorities; they also had to overcome much principled opposition to taxation and state regulation. Consensus about the value of universal elementary education was there from the beginning. Consensus about the state's role had to be built. By 1860 a majority of Americans favored a single, tax-supported, free school system, and this belief is one of the enduring legacies of the nineteenth century. But the sources of dissent continued; thus, the dialogue continues, even in our own day.

The Significance of Excluding Slavery from the Old Northwest in 1787

*David Brion Davis**

Fifty-two years before Congress enacted the Northwest Ordinance, the British government excluded slaves from the colony of Georgia.[1] Although this precedent has been conspicuously ignored in debates over the meaning of Article VI of the Northwest Ordinance, the parallels are intriguing. In both cases the prohibition of slavery was adopted as part of a separate legislative act and not incorporated in a founding charter or national Constitution. While the intentions of the Confederation Congress are more obscure than those of James Oglethorpe and the trustees of Georgia, it is clear that neither measure was expected to endanger slavery in adjacent territories or challenge the legitimacy of slaveholding in general. The 1735 prohibition allowed Carolinians to reclaim blacks who escaped into Georgia, just as Article VI provided for the return of fugitives "to the person claiming his or her labor or service."

The advocates of a free-soil Georgia were anything but abolitionists. Oglethorpe was deputy governor of the slave-trading Royal African Company and also owned slaves on a Carolina plantation. The prohibition act provided for the sale of any unclaimed blacks found in the colony. The trustees were to receive the proceeds. In 1787, as far as is known, no southern members of the Congress of the Confederation voiced the slightest disapproval of Article VI, which a committee of five, including a South Carolinian and two Virginians, suddenly added at the last minute to the finished text of the Northwest Ordinance.

Staughton Lynd and Paul Finkelman, in their masterly studies of Article VI, have underscored the contrast between the har-

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[1] For the citation of primary sources and a brief discussion of excluding slaves from Georgia, see David Brion Davis, *The Problem of Slavery in Western Culture* (Ithaca, N.Y., 1966), 144-50.

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monious congressional deliberations and the nearly contemporaneous debates in the Constitutional Convention.[2] From July 9 to July 12, 1787, sectional anger erupted at Philadelphia as the convention argued about the three-fifths rule for apportioning representatives in the House of Representatives. A few northerners objected that allowing representation for slaves would encourage further slave importation from Africa. Delegates from South Carolina and Georgia demanded constitutional protection for slavery as the price for union. Subsequent conflicts in the convention and in the First Congress under the new Constitution showed how explosive the South would become in the face of any perceived threat to its most valuable form of property. Yet on July 13, the day after the Constitutional Convention provisionally accepted the three-fifths compromise, the Continental Congress, chaired by a southerner, adopted the Northwest Ordinance with its newly added Article VI, which had not appeared in the draft of July 11. A northerner cast the single dissenting vote. When the First Congress reenacted the Ordinance in 1789, the southerners who would soon become so outraged by cautiously worded antislavery petitions seem not to have sensed an abolitionist Trojan Horse or entering wedge.

Parallels between the slavery exclusions of 1735 and 1787 extend beyond slaveholder concurrence. Both the British and American governments hoped to attract enterprising white migrants who would rapidly settle a territory that reached toward a Spanish frontier. Some of the planners, at least, sought white settlers from a social class that could not afford to buy slaves—settlers who, as experience had shown, had been deterred from emigrating to the more prosperous plantation regions. Oglethorpe and his philanthropic supporters were thinking of British debtors and German peasants who could contribute to imperial self-sufficiency by producing such commodities as silk and wine. The later American developers were thinking of a less debased class of yeoman farmers who would clear the land of Indians and trees, cultivate grains, build roads, towns, churches, and schools, and eventually be capable of self-government. Despite this difference, both blueprints envisioned a fusion of individual opportunity and national interest that depended on maintaining the dignity of physical labor. One of the motives for excluding slavery, at least in the initial period of settlement, was the fear that whites would be demoralized and corrupted by the presence of black slave competitors.

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[2] Paul Finkelman, "Slavery and the Northwest Ordinance: A Study in Ambiguity," *Journal of the Early Republic*, VI (Winter, 1986), 343-70; Staughton Lynd, "The Compromise of 1787," *Political Science Quarterly*, LXXXI (June, 1966), 225-50. See also J. David Griffin, "Historians and the Sixth Article of The Ordinance of 1787," *Ohio History*, LXXVIII (Autumn, 1969), 252-60; Peter S. Onuf, *Statehood and Union: A History of the Northwest Ordinance* (Bloomington, 1987), 85, 109, 109-32; Donald L. Robinson, *Slavery in the Structure of American Politics, 1765–1820* (New York, 1971), 378-83, 403; David Brion Davis, *The Problem of Slavery in the Age of Revolution, 1770–1823* (Ithaca, N.Y., 1975), 152-59; Edward Coles, *History of the Ordinance of 1787* (Philadelphia, 1856).

Far more important, in the case of Georgia, was the need for a secure buffer zone between South Carolina and Spanish Florida. The British were alarmed by the Spaniards' success in encouraging black resistance in Carolina and offering a refuge for fugitive slaves. This anxiety deepened when Oglethorpe failed to capture St. Augustine and when the slave unrest exploded in the Stono Rebellion. The Spanish borderlands had a different but no less significant bearing on the Northwest Ordinance. Robert V. Remini, in his inaugural address to this conference, has graphically described the dangers of the mid–1780s, when southwestern settlers were prepared to transfer their allegiance to Spain if Congress refused to recognize their vital need for water transport to the Gulf of Mexico. Most southern leaders put the highest priority on securing from Spain the right to free navigation of the Mississippi River. Whatever tradeoffs led to the acceptance of Article VI, it seems likely that southerners expected the bargain to quiet most northern opposition to rapid westward expansion, including the demand for access to the Mississippi and for the undelayed admission of slaveholding states south of the Ohio River.

But as the trustees of Georgia soon discovered, an act prohibiting slavery is not self-enforcing. In 1735 slavery was universally sanctioned by the law of nations, and black slaves were openly sold and traded in England as well as in every New World colony. Petitions from white settlers in Georgia, including illiterates who could not sign their names, predicted that the colony would sink into ruin unless quickly supplied with black slaves. A few antislavery petitioners spoke of the Africans' natural right to freedom. They also argued that slaves would deprive white laborers and craftsmen of work and endanger the colony with bloody insurrections. But meanwhile, no institutions were effective in preventing Carolina planters from crossing the Savannah River with their slaves or even slave ships from landing their cargoes in Savannah. In 1749 the trustees finally capitulated and asked Parliament to repeal the prohibition.

Paul Finkelman has recently analyzed the ambiguities of the Northwest Ordinance with respect to slavery and has emphasized the failure of Congress to enact any enforcement legislation. As early as July, 1788, the Franco-American slaveholders residing in the territory petitioned Congress to secure their slave property from the effects of what they considered an "Ex post facto law" that seemed to violate the terms of the Treaty of Paris of 1763 and the Virginia land cession of 1784. Like some of the earlier Georgian petitioners, the French settlers contended that the obnoxious law would depopulate parts of the territory. And, in actuality, some of the more affluent French slaveholders sought security in the Spanish territory across the Mississippi. Although Congress never took action to clarify the status of slaves living in the Old Northwest before 1787, Finkelman points out that the report of a three-member congressional committee that included James Madison "suggests how truly *uncommitted* the Founders were to ending slavery."[3] Governor Arthur St. Clair and other officials conveyed the same reassuring message to the inhabitants of the territory; namely, that Article VI pertained to the future introduction of slaves and was not intended to deprive present inhabitants of property they possessed at the time the Ordinance was passed. As Finkelman and other historians have shown, settlers continued to petition Congress to repeal or modify Article VI, while the territorial governments of Indiana and Illinois tried to attract slaveholders by giving sanction to various forms of involuntary servitude. Until the well-known electoral struggle of 1823–1824, there was a genuine possibility that Illinois would become a slave state. As in colonial Georgia, the issue turned on local conditions and demography. Fortunately, the Northwest was not adjacent to South Carolina and the Atlantic. From Finkelman's forceful arguments it might well be concluded that the Northwest Ordinance was no more significant as an antislavery measure than the British law of 1735 "for rendering the Colony of Georgia more Defencible."

But such a verdict would ignore the extraordinary power of antislavery ideology, which must be distinguished from Garrisonian immediatism. The principle that slavery should be excluded from the virgin West became the core of an antislavery and Republican party ideology that obscured the economic benefits of coerced labor and transformed the moral meaning of national interest. To develop this point I must first review recent reevaluations of slavery as part of a global capitalist economy. I will then turn to the misapprehensions that arise when immediatist standards and expectations are imposed on such measures as the Northwest Ordinance.

Historians have only begun to free themselves from the antislavery assumptions that permeated political economy from the time of Benjamin Franklin and Adam Smith. They still find it difficult to believe that an immoral and flagrantly unjust system of labor could be congruent with long-term economic and material progress. They intuitively reject the claims of Robert W. Fogel and other economists that slave labor was efficient, productive, adaptable, and immensely profitable. Whatever the short-term rewards, in the moral economy of history the sin of slaveholding surely led to soil exhaustion, indebtedness, degenerate livestock, obsolete technology, dilapidated farms, and a society bereft of schools, towns, and enterprise. But this conventional imagery merges many independent variables and confuses the symptoms of an imbalanced economy with economic decline. It also obscures the crucial contributions of black slaves to the growth of a larger, interdependent Atlantic economy. The recent research of David Eltis, Seymour Drescher, Stanley Engerman, Rebecca J. Scott, and other scholars has moved beyond the now conventional view that black slave labor provided the foundation for the wealthiest and most dynamic New World economies before 1800; there is now impressive evidence that the economic importance of slavery *increased* in the nineteenth century along with the soaring global demand for such consumer goods as sugar, coffee, and cotton textiles. This demand could only be met by plantation production and coerced labor, including the hundreds of thousands of indentured Asian workers who eventually replaced many of the emancipated West Indian blacks.[4]

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[3] Finkelman, "Slavery and the Northwest Ordinance," 364.

Contrary to traditional dogma, under most circumstances free labor was not cheaper or more productive than slave labor. In most of the New World, in any event, a sufficient supply of free labor was never available. And as the British learned to their dismay after emancipating nearly 800,000 colonial slaves, free laborers were unwilling to accept the plantation discipline and working conditions that made sugar production a highly profitable investment. The British West Indian colonies did not decline in their value to the British economy until the 1820s, when the effects of slave-trade abolition finally began to counteract rising worker productivity. Britain's suicidal, or as Drescher would have it, "econocidal" destruction of the world's leading producers of sugar and coffee provided an extra stimulus to the plantations of Cuba and Brazil and to the illegal slave trade that supplied them with labor.[5] And in Brazil the increasing concentration of slaves on coffee fazendas did not prevent the profitable use of slave labor in such varied enterprises as cattle ranching, food processing, construction, grain and root crop farming, textile manufacturing, jerked beef production, whaling, and even serving as deck hands on South Atlantic slave ships. In mid-nineteenth century Brazil black slavery proved to be compatible with urban life and virtually every urban trade and skill. In midnineteenth century Cuba black slaves were profitably employed in the most capital-intensive and highly mechanized sugar production. In both Cuba and Brazil, as Herbert Klein notes, slaves were "most heavily concentrated in the most dynamic regions of their respective societies on the eve of emancipation."[6]

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[4] See, especially, David Eltis, *Economic Growth and the Ending of the Transatlantic Slave Trade* (New York, 1987); Rebecca J. Scott, *Slave Emancipation in Cuba: The Transition to Free Labor, 1860–1899* (Princeton, N.J., 1985); Herbert S. Klein, *African Slavery in Latin America and the Caribbean* (New York, 1986); Seymour Drescher, *Capitalism and Antislavery: British Mobilization in Comparative Perspective* (New York, 1987); and Robert W. Fogel's forthcoming *Without Consent or Contract: The Rise and Fall of American Slavery*. I am indebted to Professor Fogel for sending me preliminary drafts of the latter work.

[5] Seymour Drescher, *Econocide: British Slavery in the Era of Abolition* (Pittsburgh, 1977); Eltis, *Economic Growth*.

David Eltis, in his monumental *Economic Growth and the Ending of the Transatlantic Slave Trade*, finds a symbiotic relationship between New World slavery and industrial capitalism. Slave labor produced most of the first luxury goods that reached a mass consumer market, particularly in England, and that therefore contributed to the labor incentives needed for English industrial work discipline. The dramatic drop in price for British manufactured goods reduced the cost of buying slaves on the African coast. While the price of slaves remained low and relatively stable in Africa during much of the nineteenth century, the price of slaves continued to rise in the New World, with minor fluctuations, as landowners sought to meet the mounting world demand for sugar, coffee, cocoa, tobacco, rice, and cotton. As Eltis convincingly argues, "for the Americas as well as for Britain at the outset of industrialization, there was a profound incompatibility between economic self-interest and antislavery policy."[7]

Despite Britain's vigorous and expensive efforts to suppress the Atlantic slave trade, approximately two-and-one-quarter million African slaves were imported into the Americas between 1811 and 1860. As Eltis has shown, it was not until the 1840s, a decade of massive European migration to the Americas, that the flow of free immigrants exceeded the flow of African slaves, even though the importation of slaves was by then almost entirely confined to Cuba and Brazil.[8] The symbiosis between slavery and industrial capitalism is perhaps most vividly indicated by the fact that the illicit Atlantic slave trade depended on British capital, credit, insurance, and the manufactured goods, including firearms, that were exchanged in Africa for slaves.[9]

One concludes from Eltis's iconoclastic study that British capitalism, as a source of human exploitation and suffering in the early industrial era, could have been even worse than it proved to be. Economic growth would probably have increased at a faster rate if Britain had not outlawed the slave trade and curbed the development of the rich plantation lands in Trinidad and Guyana. Consumers and cotton manufacturers would probably have benefited if

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[6] Klein, *African Slavery*, 130, *passim*; Scott, *Slave Emancipation*, chapter 1.

[7] Eltis, *Economic Growth*, 15.

[8] *Ibid.*, 24.

[9] David Eltis, "The British Contribution to the Nineteenth-Century Transatlantic Slave Trade," *Economic History Review*, 2nd ser., XXXII (May, 1979), 211-27.

British cruisers had protected slave ships bound for Texas instead of intercepting slavers in Brazilian waters. There is a subtle irony in the way that Eltis's neoclassical economic analysis exposes the pathological consequences of a world view that subordinates all human relationships to free-market choices and the supreme goal of achieving the largest national product.

But when the vitality and flexibility of nineteenth century slavery are considered, the exclusion of the institution from any territory seems all the more remarkable. Before 1787 the single attempt to exclude slavery from a New World colony proved to be a hopeless failure. In 1790, when Britain sought to encourage white immigration to Canada as well as to the Bahamas and Bermuda, the Imperial Act allowed the introduction of black slaves as a matter of course.[10] Britain failed to respect the French Convention's emancipation decree of 1794, which applied to territories that fell under British control. In 1802 Napoleon restored slavery in Guadeloupe and in the following year legalized both slavery and the slave trade. It is true that when the North American colonies had earlier begun to resist British taxation and to assert their own right to self-determination, they suspended or permanently prohibited the further importation of slaves; but unlike the other plantation societies of the New World, the southern colonies could rely on the rapid natural increase of their slave populations. Although the American Revolution encouraged genuine moral misgivings over the justice of human slavery, the state laws suspending or prohibiting the slave trade arose from a variety of motives. These included the desire of some southerners to maintain high slave prices and to dominate labor markets in the West; the fear of many northerners that slave competition would undermine the livelihood of white workers; and the more widely shared conviction that the Republic's security and welfare required greater racial homogeneity.

Whatever the legacy of the Revolution, in 1787 slavery was supported by the laws of every state except Vermont, New Hampshire, and Massachusetts. Why would representatives from slaveholding states agree without argument to ban the institution from the vast territory north of the Ohio River? It was improbable that the Northwest could ever benefit from the economies of scale associated with gang labor on sugar and cotton plantations, but in 1787 no one could foresee the cotton gin or the rich Black Belt extending across Alabama and Mississippi. As the later history of the Northwest suggests, slaves would have lowered labor costs in various occupations ranging from tobacco and hemp production to mining and construction work. It is well to remember that the Virginia border then extended north to central Ohio, that the lower third of Illinois still extends below northern Kentucky, and that Cairo, Illinois, lies farther south than Richmond, Virginia.

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[10] It should be noted that in 1793, under the prodding of Lieutenant-Governor John Graves Simcoe, Upper Canada's legislature passed an act "to prevent the further introduction of slaves," which also provided for gradual emancipation. Robin W. Winks, *The Blacks in Canada: A History* (New Haven, 1971), 96-98.

When historians ponder the mystery of Article VI, they customarily quote a revealing passage from William Grayson's letter of August 8, 1787, to James Monroe. Grayson, the Virginian who had presided over Congress when the Ordinance was approved, explained, "The clause respecting slavery was agreed to by the Southern members for the purpose of preventing Tobacco and Indigo from being made on the N.W. side of the Ohio as well for sev'l other political reasons." While we have no reason to doubt the accuracy of this report, aside from a mistake in copying "indigo" instead of "hemp," it is not immediately clear why southerners feared competition more from the Northwest than from the Southwest.[11] In 1787 tobacco exports were rising. If western expansion threatened to lower the price of certain slave-grown staples, it would also raise the price of slaves and offer new opportunities to slaveholders who were willing to migrate. It is true that Grayson and other Virginians had a personal interest in developing the lands of Kentucky and Tennessee and that by 1787 many observers assumed the Northwest would be settled by New Englanders. But the exclusion of slavery would still appear to be a costly surrender of principle, especially for the Deep South.

Representatives from the Deep South, who fought so bitterly to protect their constitutional right to import slaves from Africa, might well have seen Article VI as a restriction that would limit the future demand for slave labor and thus reinforce arguments for a constitutional or congressional prohibition of the slave trade. On July 13 the Constitutional Convention had not yet faced the extremely divisive question of the Atlantic slave trade, and of course no one could predict the outcome of the Constitutional Convention or assume that a new constitution would be adopted.[12] However one interprets the evidence, excluding slavery from such an immense territory appears to be a dangerous precedent and a drastic means either for limiting competition or for the contradictory goal of ensuring that slavery could expand into the southwest. In any event, the latter objective would be virtually guaranteed by the terms of the land cessions of the southern seaboard states.

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[11] William Grayson to James Monroe, August 8, 1787, James Monroe Papers (Manuscripts Division, Library of Congress, Washington, D.C.). I am indebted to Robert F. Berkhofer, Jr., for the information that Grayson orginally wrote "tobacco and hemp" and also that he had extensive landholdings south of the Ohio River.

[12] For an excellent and provocative analysis of the influence of the issue of slavery on the Constitutional Convention, see Paul Finkelman, "Slavery and the Constitutional Convention: Making a Covenant with Death," in *Beyond Confederation: Origins of the Constitution and American National Identity*, ed. Richard Beeman, Stephen Botein, and Edward C. Carter II (Chapel Hill, N.C., 1987), 188-225.

It is possible, of course, that the southern congressmen never expected the prohibition to be effective or permanent. Or Staughton Lynd may well be right when he offers the hypothesis of a secret compromise in which southerners accepted Article VI as a low price for the three-fifths clause and the fugitive slave clause in the federal Constitution.[13] But regardless of the varying views on this question, the intentions of the framers are of minor significance when compared with the ideological consequences of creating free soil.

An instructive analogy can be drawn between Article VI and Lord Mansfield's famed Somerset decision of 1772. Like the Continental congressmen, Lord Mansfield had no intention of endangering the institution of slavery. The question he faced was whether the law of England allowed Charles Stuart, a resident Virginian, to seize his runaway slave, James Somerset, and lock him in chains aboard a ship scheduled to sail to Jamaica. After granting a writ of *habeas corpus*, ordering the ship's captain to bring Somerset to court, Mansfield first sought an out-of-court settlement. Fearing the effects of a judicial opinion on the status of ten thousand or more black slaves held in England, he advised resident planters to appeal to Parliament for appropriate legislation. In an earlier trial Mansfield had announced, "I would have all masters think them free, and all Negroes think they were not, because then they would both behave better." After hearing the opposing arguments of counsel, which would either have legitimated or abolished slavery on English soil, the chief justice searched for the narrowest possible ground on which to base his decision. He affirmed that slavery must be based on positive law and could not be "introduced by courts of justice upon mere reasoning or inferences from any principles, natural or political." In discharging Somerset, Mansfield went no farther than to say English law did not permit a master to seize his servant and forcibly transport him out of the country.[14]

The Somerset decision did not immediately emancipate the slaves living in England or prevent colonists from bringing slaves into the country. Mansfield continued to rule that slaves were not entitled to sue for back wages. Yet the popular press gave wide publicity to the arguments of Somerset's counsel and increasingly interpreted Mansfield's decision to mean that the air of England was too pure for slavery, or in William Blackstone's earlier formulation, that the moment a slave lands in England, "[he] falls under the protection of the laws, and with regard to all natural rights becomes *eo instanti* a freeman." Slavery lingered in England for some two decades and was not officially abolished until 1834, but masters had no legal remedies when slaves in increasing numbers simply walked away into freedom. Advertisements for runaways virtually disappeared by the late 1780s, when abolitionism acquired a mass appeal.[15]

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[13] Lynd, "Compromise of 1787."

[14] Quotations are from "Pleadings, and a solemn judgement, on the question, Whether a slave continues to be a slave after coming into Britain?" *The Scot's Magazine*, XXXIV (June, 1772), 298-99, and Drescher, *Capitalism and Antislavery*, 37. For discussions of the Somerset case see William M. Wiecek, *The Sources of Antislavery Constitutionalism in America, 1760–1848* (Ithaca, N.Y., 1977), chapter 1; Drescher, *Capitalism and Antislavery*, chapter 2; Davis, *Problem of Slavery in the Age of Revolution*, chapter 10.

Like the Northwest Ordinance, the Somerset decision deterred slaveholders from migrating across a boundary loaded with risk. The analogy should not be pressed, since a densely populated industrializing nation over three thousand miles from the nearest plantation economy can hardly be compared with an American frontier. Yet both the edicts became mythologized as antislavery landmarks. Salmon Chase might well have been referring to Somerset when he proclaimed that by a "single act" the Founding Fathers had made slavery illegal and had "impressed upon the soil itself an incapacity to bear up other than freemen." And even the Somerset case was not devoid of racist implications. When Somerset's chief counsel, Sergeant Davy, exclaimed that the air of England was too pure for a slave to breathe in, he was not inviting more slaves to come and breathe the freedom-giving air. He made it clear that the air of England was too pure for a black to breathe in. He wished to prevent an influx of blacks, "for now and then we have some Accidents of Children born of an Odd Colour." Unless a law were passed to prevent such immigration, Sergeant Davy said, "I don't know what our Progeny may be, I mean of what Colour."[16] Racial prejudice was of course far more virulent and widespread in the United States, especially in the Northwest. The determination to avoid the degradation and dishonor of slave labor also involved the exclusion of the race that slavery had degraded.

Although antislavery ideology was closely related to the need to valorize and legitimate free labor, it cannot be reduced to economic self-interest. The popular hostility to slavery that emerged almost simultaneously in England and in parts of the United States drew on traditions of natural law and a revivified sense of the image of God in man.[17] From the time of Granville Sharp and Anthony Benezet, Anglo-American abolitionists were moved by a profound conviction that man-stealing and slaveholding were morally wrong. No material rewards could justify the kidnapping and sale of innocent Africans or the reduction of human beings to the status of domesticated animals. When Sharp wrote in 1788 to the Pennsylvania Abolition Society on behalf of the London abolitionists, he stressed that "in addressing the Representatives of a commercial nation on an affair in which its interests and its justice are inseparable, we cannot for a moment abandon the fundamental principle of our association, that no gains, however great, are to be put in competition with the essential rights of man, and that as a nation is exalted by righteousness, so it is equally debased and debilitated by the revenues of injustice."[18]

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[15] William Blackstone, *Commentaries on the Law of England* (4 vols., Oxford, 1765–1769), I, 123.

[16] The Case of James Sommersertt, a Negro, 20 *How. St. Tr.* 1 at 75; transcript of proceedings in the Court of King's Bench, 1772, pp. 57-60, 65, Granville Sharp Papers (New-York Historical Society, New York City).

[17] This ideology is one of the main themes of Davis, *Problem of Slavery in Western Culture*.

This very letter also illustrates another aspect of pre-immediatist antislavery thought. Along with his emphasis on uncompromising moral principle, Sharp explained why the London Abolition Society had limited its purpose to eradicting the slave trade. Individual members might look forward to slave emancipation, he said, but this objective could be obtained only by "such gradual and temperate means as the colonial assemblies may adopt." This extreme caution, it appears in retrospect, sprang from the very values that led to the condemnation of slavery. Slavery could not be tolerated as a necessary and permanent evil because it deprived human beings of the responsibilities of free choice and of the recompense for labor, including private property, on which freedom depended. This meant that the ultimate goal of freedom could not be achieved by coercive means that destroyed the very fabric of law, consent, and property.

Even the Quakers, who established the first model of collective emancipation, proceeded gradually and with great caution as they dealt with the symptoms of "slavery withdrawal." Beginning in the late 1750s they investigated the problem of members who were actively engaged in the slave trade; in Philadelphia they adopted disciplinary measures that fell short of disownment. It took some twenty years for the Society of Friends to disengage itself from slaveholding even in the northern states; legal complications prolonged the process in North Carolina.

Four years after the passage of the ambiguous Northwest Ordinance, the French *Amis des noirs* issued a seemingly clear and uncompromising dictum on the status of slaves. Since no man could alienate his natural freedom, the French abolitionists said, "the slave is always free," regardless "of contrary laws, customs, and practices . . . Accordingly, the restoration of a slave's freedom is not a gift or an act of charity. It is rather a compelling duty, an act of justice, which simply affirms an existing truth—not an ideal which ought to be." But despite this eloquent rhetoric the reformers concluded "that the immediate emancipation of Negro slaves would be a measure not only fatal for our colonies, but a measure which, since our greed has reduced the blacks to a degraded and impotent state, would be equivalent to abandoning and refusing aid to infants in their cradles or to helpless cripples."[19] Such examples add perspective to the emancipation acts of Pennsylvania, Connecticut, and Rhode Island, which preceded the Northwest Ordinance and which applied only to the future-born children of slaves, not to the slaves then living.

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[18] Granville Sharp to the Pennsylvania Abolition Society, July 30, 1788, Correspondence Incoming, Pennsylvania Abolition Society Papers (Historical Society of Pennsylvania, Philadelphia).

Paul Finkelman seems surprised and somewhat outraged by his discovery that "whatever it was supposed to accomplish, Article VI had little immediate impact on the legal status of slaves in the area that would become the states of Indiana and Illinois, where the bulk of the slaves in the territory lived." He suggests that "had there been a full-fledged debate over Article VI a clearer sense of its meaning might have emerged."[20] Apart from the fact that a full-fledged debate would have destroyed, in all probability, any chance of agreement on an antislavery provision, what I find surprising is the absence of any formal exemption of the Franco-American slaveholders from the effects of Article VI. In 1798, when Congress debated a motion to extend the exclusion clause of the Northwest Ordinance to Mississippi Territory, the advocates of slave exclusion acknowledged that the present settlers who had arrived under the laws of England, Spain, or Georgia could not with justice be deprived of their property.[21] The same presumption prevailed in 1804 when Congress considered various proposals for restricting slavery and the slave trade in Louisiana. Yet despite the contradictions between Article VI and a section of the Northwest Ordinance promising that Franco-Americans could retain the laws and customs then in force among them "relative to the descent and conveyance of property," the new federal Congress did nothing to clarify the issue and refused to comply with petitions requesting sanction for even the kind of age-limited servitude found in the gradual emancipation acts of the northern states. Although Congress also failed to veto territorial laws allowing indentured servitude and barring the residence of free blacks, the principle of prohibiting slavery remained intact.

Finkelman is surely right when he points to the discrepancy between the later abolitionist image of the Northwest Ordinance and the continuing vitality of slavery in the region. But one need not be as cynical or disillusioned about the Ordinance as he seems to be. For one thing, the unsuccessful struggle to legalize slavery in Illinois must be balanced against the unsuccessful struggle to abolish slavery in Kentucky. Initially led by such evangelical ministers as David Rice, David Barrow, and Carter Tarrant, the latter effort was revived in 1833 by James G. Birney's Kentucky Society for the Gradual Relief of the State from Slavery. Significantly, a large number of antislavery spokesmen from the Upper South eventually found a refuge from mob violence or peer-group hostility in the Northwest. It was not by accident that Edward Coles, the young Virginia antislavery slaveholder who pressed Thomas Jefferson to match his words with actions, later became the governor of Illinois who led the antislavery faction to victory. In 1856 Coles sketched the history of the "marvellous" Ordinance which had preserved freedom in all the states north of the Ohio River. According to Coles, the Ordinance had won more popular sanction than the Constitution as its principles were extended to the territory obtained by the Louisiana Purchase north of the 36°30′ latitude and even to the Oregon Territory before being repealed by the Kansas-Nebraska Act. Needless to say, Coles regarded this repeal as a repudiation of the Founding Fathers' wisest legacy and as a possible prelude to "the awful realities of civil war."[22]

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[19] Translated from *Adresse de la Société des Amis des Noirs, à l'assemblée nationale . . .* (2nd. ed., Paris, 1791), 107-108.

[20] Finkelman, "Slavery and the Northwest Ordinance," 360, 359.

[21] *Annals of Congress*, 5 Cong., 2 sess., 1797–1798, pp. 1306-10.

Finkelman voices skepticism about the claims of the aging Coles, who was born seven months before the Northwest Ordinance was enacted. Finkelman presents a brilliant but bleak account of the persistence of slavery in parts of the Old Northwest during sixty-one years of Coles's life. But these statistics must also be put in perspective. In 1820 there were still over 10,000 slaves in New York and more than 7,500 in New Jersey; in Illinois there were only 917; in Indiana 190. Although the Pennsylvania abolition law had been enacted seven years before the Northwest Ordinance, there were more slaves in Pennsylvania in 1820 than in Indiana. Finkelman seems especially disturbed by the fact that slavery lingered in Illinois until the constitution of 1848 finally abolished it. He does not mention that the census of 1840 records only 331 slaves or that in 1840 there were still a few slaves left in Pennsylvania, Connecticut, and Rhode Island. In other words, a lag of sixty years was not unusual in cases of gradual emancipation. In New Jersey, where an emancipation statute won assent only in 1804, slavery survived until 1846, and a few blacks remained in virtual bondage until the Civil War.[23]

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[22] Coles, *History of the Ordinance of 1787*, 21-33.

[23] Arthur Zilversmit, *The First Emancipation: The Abolition of Slavery in the North* (Chicago, 1967), 218-22. My figures on slave and black populations, which must be taken as crude estimates, are based on *Historical Statistics of the United States: Colonial Times to 1970* (Washington, 1975); U.S., Department of Commerce, Bureau of the Census, *Negro Population, 1790–1915* (1918; reprint, New York, 1968); and the table in Eugene H. Berwanger, *The Frontier Against Slavery: Western Anti-Negro Prejudice and the Slavery Extension Controversy* (Urbana, Ill., 1971), 31.

Finkelman might logically reply that the language of Article VI did not imply gradual emancipation. But as he carefully demonstrates, the Northwest Ordinance said nothing about enforcement and failed to clarify the options open to new states. This very ambiguity was probably essential for the initial congressional consensus; it also converted the Ordinance into a charter document, as Andrew R. L. Cayton and Peter S. Onuf have argued, which was subject to conflicting interpretations.[24] The resulting uncertainty had one striking and incontrovertible consequence: it deterred slaveholders from moving across the Ohio River. The Northwest Ordinance, reinforced by flagrantly racist legislation and public opinion, maintained a preserve for whites until there was no possibility that states created from the Northwest Territory would legalize black slavery.

In 1820, for example, there were almost twice as many blacks in Missouri as in Ohio, Indiana, and Illinois combined. Blacks constituted less than 1 percent of the population in each of the three northwestern states, but 30 percent of the population of neighboring Kentucky. Had there been no Article VI, this incredibly lopsided distribution would surely not have prevailed. Parts of Indiana and Illinois, in particular, would have been inundated by the northern edge of the stream of slaves that rolled across Kentucky and Tennessee toward Missouri and Arkansas.

The timing of the Northwest Ordinance contributed to a pattern of boundary making that contained ominous implications for the future of slavery. From England to New England, Pennsylvania, and the Northwest, geographic lines marked off zones where free labor was to be the exclusive norm. If southerners wrongly assumed that even nonslaveholding westerners would prove to be allies, they rightly assumed that New York and New Jersey would soon join the ranks of emancipating states. When they accepted the premise that Congress could define and demarcate free-labor territory, they failed to anticipate the corollary that slavery would increasingly be seen as an exceptional or artificial institution requiring the sanction of positive law. Eventually, of course, after northern politicians moved to exclude slavery from Arkansas Territory, Missouri, and all territories won in the Mexican War, many southern leaders repudiated the principle of free-soil boundaries and demanded what amounted to the nationalization of slavery. The slaveholders won many victories in judicial decisions involving the vexing and complex questions of slave transit, sojourn, and comity, culminating in the Dred Scott decision, but their ideological losses should not be overlooked. The creation and expansion of a free-soil world, however accommodating in certain respects, invited increasingly invidious comparisons between antithetical and seemingly irreconcilable social systems.

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[24] Andrew R. L. Cayton and Peter S. Onuf, "The Northwest Ordinance: New Directions in Historical Writing," 4-5 (unpublished paper prepared for a symposium on the Northwest Ordinance, Indiana University, Bloomington, September 6-7, 1987).

Alexis de Tocqueville was only one of the numerous travelers who descended the Ohio River boundary and exclaimed over the contrasting landscapes on the northern and southern shores. After presenting images of industry and sloth, of growth and decay, Tocqueville condensed the message of free-labor ideology in a single memorable sentence:

> On the left bank of the Ohio work is connected with the idea of slavery, but on the right with well-being and progress; on the one side it is degrading, but on the other honorable; on the left bank no white laborers are to be found, for they would be afraid of being like the slaves; for work people must rely on the Negroes; but one will never see a man of leisure on the right bank: the white man's intelligent activity is used for work of every sort.[25]

This dramatic polarity, however deceptive in terms of wealth and economic growth, was a legacy of the Northwest Ordinance. It provided the core of the Republican party's ideology, an ideology that seemed convincing to millions of northerners who had no sympathy for the abolitionist cause. At the end of the Civil War, Charles Sumner contended that the Confederate states had neither seceded nor become conquered provinces. Having forfeited their rights by an act of rebellion, he claimed, they had in effect reverted to the status of territories temporarily subject to congressional control. Since the Constitution provided no guidelines for Reconstruction, Sumner turned instinctively to the precedent of new beginnings, the precedent that had supposedly made the Old Northwest a model republican society.

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[25] Alexis de Tocqueville, *Democracy in America*, ed. J. P. Mayer, trans. George Lawrence (Garden City, N.Y., 1969), 345-46.

Americans versus Indians: The Northwest Ordinance, Territory Making, and Native Americans

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The Northwest Ordinance is celebrated as one of the great documents of American history because it envisaged an empire based upon principles novel at the time. By allowing what started in effect as colonies to achieve full statehood in the Union, the Confederation Congress in one of its last acts provided an innovative solution to the governance of the area north and west of the Ohio River. Through recapitulating the hypothetical history of the original states, new and yet-to-be-created territories were to gain eventually the rights and responsibilities of the original states.[1]

Through such a novel solution the Confederation Congress brought yet another American institution into the "new order of the ages," so proudly proclaimed on the Great Seal of the United States. Congressmen thus invented a new kind of colonial system to go with the other innovations in constitutions and law codes, forms of government, church-state relations, and even spelling books and social customs.[2] So successful was the change that to Ameri-

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[1] The most recent history of the evolution of the Ordinance is Peter S. Onuf, *Statehood and Union: A History of the Northwest Ordinance* (Bloomington, 1987), chapters 1-3, but see also Jack E. Eblen, *The First and Second United States Empires: Governors and Territorial Government, 1784–1912* (Pittsburgh, 1968), chapter 1; Robert F. Berkhofer, Jr., "Jefferson, the Ordinance of 1784, and the Origins of the American Territorial System," *William and Mary Quarterly*, 3rd. ser., XXIX (April, 1972), 231-62, and Robert F. Berkhofer, Jr., "The Northwest Ordinance and the Principle of Territorial Evolution," in *The American Territorial System*, ed. John P. Bloom (Athens, Ohio, 1973), 45-55.

[2] The novelty of the United States as an experiment is one theme of many books and articles on republicanism in the revolutionary era; see, for example, Gordon S. Wood, *The Creation of the American Republic, 1776–1787* (Chapel Hill, N.C., 1969), chapter 15. For European views of the newness of the United States, see Durand Echeverria, *Mirage in the West: A History of the French Image of American Society to 1815* (Princeton, N.J., 1957); Robert R. Palmer, *The Age of Democratic Revolution: The Challenge* (Princeton, N.J., 1959), chapter 9; Hugh Honour, *The New Golden*

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cans then and forevermore the internal *colonies* of the United States became known as *territories*.

The newness of the United States posed problems concerning national identity, however, as leading Americans consciously created an ideology of Americanism to measure the loyalty of new citizens and to understand their own place in history. On one hand the new ideals and institutions were presumed universally good for all human beings and therefore the wave of the future. What the United States was in the last quarter of the eighteenth century, Europe and maybe the world would become in succeeding centuries. On the other hand America's new ideals and institutions—be they political, social, or religious—seemed unique to the new United States at the time. The fact that America's good fortune appeared an exception to the world's normal condition seemed to demand the special nurture of its ideals and institutions.

Under such impressions Americans then and subsequently were ambivalent about receiving foreign peoples into their society for fear they might contaminate, if not subvert, American life. Could alien "others" appreciate American ideals or contribute toward social arrangements in the United States if they had lived under laws and institutions presumed completely opposite? Concern about the effects of foreign peoples and their alien "otherness" on American values and institutions went hand in hand, therefore, with proclaiming the higher ideals of the American way of life as appropriate for the whole world.[3]

The paradox of Americanism as ideology and in practice lay in this contradiction between proclaiming American arrangements as good for all human beings but restricting their benevolence to a favored few peoples among the world's societies. Dominant Americans' efforts to bound their heterogeneous society excluded certain peoples as others and included themselves as true Americans on grounds composed equally of an ideology of ideal institutions and an ideology of peoplehood based upon ethnicity or race. As a result American leaders, intellectuals, and ordinary citizens defined Americanism by certain ideals or modes of organization deemed

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Land: European Images of America from the Discoveries to the Present Time (New York, 1975), chapter 6, which focuses on pictorial as well as verbal imagery of "The Land of Liberty." Cushing Strout, *The American Image of the Old World* (New York, 1963), chapters 1-3, covers the symbolic understanding of Europe by Americans in this period as a contrast to themselves.

[3] John Higham, *Send These to Me: Jews and Other Immigrants in Urban America* (New York, 1975). Higham's chapter 6, particularly, treats the larger nativist strain in American history. David B. Davis argues for the connection between Americanism and nativism in "Some Themes of Counter-Subversion: An Analysis of Anti-Masonic, Anti-Catholic, and Anti-Mormon Literature," *Mississippi Valley Historical Review*, XLVII (September, 1960), 205-24; and "Some Ideological Functions of Prejudice in Ante-Bellum America," *American Quarterly*, XV (Summer, 1963), 115-25.

particularly American, and the cause of that peculiar Americanness was all too often given an ethnic or racial basis.[4]

If the provision in the Northwest Ordinance for the eventual statehood of territories represented the new and universal side of American ideology, then the ethnic application of that principle in practice proves the other side of the paradox of Americanism.[5] And no better example exists of both the strengths and limits of the ideal of territory making in light of its ethnic implications than that of the American Indians. They are one of the two peoples mentioned specifically in the Ordinance, but their inclusion in the document and the history of later efforts to establish an all-Indian territory point to the ethnic premises by which "Americans" understood and bounded themselves in earlier centuries.[6]

No peoples were considered more alien to American ideals and institutions than those peoples whites collected under the term *Indian*.[7] Thus the American Indian as image and supposed reality has always been a challenge to the ideology of Americanism. For generations of United States politicians, missionaries, and intellectuals, "American" and "Indian" represented opposite ways of living and behaving. For these white Americans the very concept of the Indian denied middle-class proprieties, private property, and proper governance. Whether attempting to understand Indian morals or economy, housing or government, family life or religion, most white Americans measured the First Americans as a general image against those values, customs, and institutions they most cherished in themselves. So alien was the Indian considered to the ideal American way of life that native Americans were long denied citizenship in the nation in which they were born.[8]

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[4] Because the United States was born in revolution and comprised polyglot peoples, the social construction of American nationality was quite conscious. See James H. Kettner, *The Development of American Citizenship, 1608–1870* (Chapel Hill, N.C., 1978); Hans Kohn, *American Nationalism: An Interpretive Essay* (New York, 1957); Paul Nagel, *One Nation Indivisible: The Union in American Thought, 1776–1861* (New York, 1964); Paul Nagel, *This Sacred Trust: American Nationality, 1798–1898* (New York, 1971); Benjamin T. Spencer, *The Quest for Nationality: An American Literary Campaign* (Syracuse, N.Y., 1957); Merle Curti, *The Roots of American Loyalty* (New York, 1946); Philip Gleason, "American Identity and Americanization," in *Harvard Encyclopedia of American Ethnic Groups*, ed. Stephan Thernstrom *et al.* (Cambridge, Mass., 1980), 31-58. On racism in general in American history see Thomas F. Gossett, *Race: The History of an Idea in America* (Dallas, 1963); Dwight W. Hoover, *The Red and the Black* (Chicago, 1976); Ronald Sanders, *Lost Tribes and Promised Lands: The Origins of American Racism* (Boston, 1978); Ronald Takaki, *Iron Cages: Race and Culture in Nineteenth-Century America* (New York, 1979); Frederick W. Turner III, *Beyond Geography: The Western Spirit Against the Wilderness* (New York, 1980). Werner Sollars provides new perspective on the notion of ethnicity as a way of understanding American peoplehood in *Beyond Ethnicity: Consent and Descent in American Culture* (New York, 1986).

[5] I do not mean to imply that delays in admission and statehood did not occur for such other reasons as political factionalism and party fighting, size of the territorial population and tax-paying requirements, and conflicts over the boundaries of new states.

[6] The other foreign people mentioned specifically in the Northwest Ordinance are the French inhabitants of the so-called Illinois Country who are exempted from the provision for partible inheritance of estates without wills, the standard authority on which is still Clarence W. Alvord, *The Illinois Country, 1673–1818* (Chicago, 1922). Jacqueline Peterson argues that these Illinois settlers were a métis population of French, black, and Indian peoples. Peterson, "Many Roads to Red River: Métis Genesis in the Great Lakes Region, 1680–1815," in *The New Peoples: Being and Becoming Métis in North America*, ed. Jacqueline Peterson and Jennifer S. H. Brown (Lincoln, Nebr., 1985), 35-72. The other people mentioned indirectly are Afro-Americans in the provision for exclusion of slavery in the Northwest Territory.

[7] As the reader will see, I usually use the term *Indian* to designate the white image of Native Americans as a single collective entity and to that extent alone a stereotype.

What Indians required in line with this imagery of their deficiency was drastic transformation to approved American ways through the example of the very institutions they presumably lacked: small private farms, formal churches and schools, and republican government. Through peaceful exhortation and model institutions preferably but by annuity and force if necessary, leading Americans tried to change Indian ways to conform to approved American ways of religion, economy, government, education, family, and manners. Indians to become proper Americans were supposed to give up tribal government, communal land ownership, and supposedly loose morals and marriage customs for bourgeois farming, Christian religion, elective government, and the middle-class family. Public policies and private philanthropy aimed to convert Indians into Americans by giving them what other Americans possessed according to the ideology of Americanism. The Indian would thus be eliminated in favor of the American, to paraphrase a slogan popular later among the self-designated (white) Friends of the Indian.[9]

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[8] In addition to the citations on racism in note 4 above, see also on the image of the Indian as alien "other": Robert F. Berkhofer, Jr., *The White Man's Indian: Images of the American Indian from Columbus to the Present* (New York, 1978); Brian W. Dippie, *The Vanishing American: White Attitudes and U.S. Indian Policy* (Middletown, Conn., 1982); Raymond W. Stedman, *Shadows of the Indian: Stereotypes in American Culture* (Norman, Okla., 1982); Robert F. Berkhofer, Jr., "White Conceptions of the Indian," forthcoming in *Handbook of North American Indians*: Vol. 4, *Indian-White Relations*, ed. Wilcomb Washburn, to be published by the Smithsonian Institution. Compare Ray Allen Billington, *Land of Savagery, Land of Promise: The European Image of the American Frontier in the Nineteenth Century* (New York, 1981). On images of the Indian following the Revolution see Bernard Sheehan, *Seeds of Extinction: Jeffersonian Philanthropy and the American Indian* (Chapel Hill, N.C., 1973); and Robert E. Bieder, *Science Encounters the Indian, 1820–1880: The Early Years of American Ethnology* (Norman, Okla., 1986); Roy Harvey Pearce, *Savagism and Civilization: A Study of the Indian and the American Mind* (2nd. ed., Baltimore, 1965), 76-104.

[9] Francis Paul Prucha provides a recent, comprehensive overview of federal policy toward the Indians from the viewpoint of its paternalism in *The Great Father: The United States Government and American Indians* (2 vols., Lincoln, Nebr., 1984). Robert F. Berkhofer, Jr., explores missionary efforts to transform tribal peoples as the quintessential model of Americanization before the Civil War in *Salvation and the Savage: An Analysis of Protestant Missions and American Indian Response, 1787–1862* (Lexington, Ky., 1965). For the later period see Francis Paul Prucha, *American Indian Policy in Crisis: Christian Reformers and the Indian, 1865–1900* (Norman, Okla., 1976).

At the same time many, maybe most, whites believed that the Indian was congenitally incapable of adopting civilized ways. A Senate Report in 1836 recapitulated briefly the "peculiarities of constitution" attributed by so many whites to the Indian (in order to refute them): "1st, An irresistable thirst for ardent spirits. 2d, An unnatural predilection for war. 3d, An inordinate fondness for the hunter state; and, 4th, An unconquerable aversion to the improvement of condition."[10] For those whites who believed these attributes innate to the Indian character, only the transfer of Indian lands to white hands, if not also the elimination of the Indian through death or assimilation, would solve the problem of the Indian and the Americanization of the West.

American goals of transforming the Indians into good Americans conflicted with the drive to people the United States with good white Americans. Whether conceived of as noble or savage, the Indian stood in the way of American progress according to the ideology of Americanism. The anomaly of the Indian was resolved all too often in favor of white interests and advance over native residence and civilizational transformation. In the competition for natural resources and lands, native lands were claimed and often expropriated for supposedly higher white uses in the name of private property. The goal of acculturation and assimilation was often superseded in favor of removal to the frontier and continued segregation. Even Christianity and civilization were conceived as leading to reduced Indian lands in native terms as well as a better Indian life in white terms. When the Cherokee, Choctaw, and other southern tribes adopted white ways of farming, government, and religion in the first three decades of the nineteenth century, they still found themselves forced to remove in the name of progress and Americanism during the fourth decade.[11]

No matter what whites did to the Indian peoples, whether judged today as bad or good, altruistic or crass, all was done in the name of bettering their existence according to the ideals of Americanism. White ideals therefore marched alongside material interests in the spread of the American empire of liberty. In the end white policy was geared to help the Indian only in terms of white conceptions of what the Indian needed. What the Indian needed was shaped by the long-standing image of the Indian as alien to the American way of life.

When read in its entirety, the very long sentence in the Northwest Ordinance about Indian relations promised nothing less—and nothing more!—than what soon became official policy under the new federal government inaugurated by the Constitution:

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[10] Senate Report no. 246, March 15, 1836, 24 Cong., 1 sess., 1835–1836 (serial set 281), 1.

[11] The most recent historian of the irony of Cherokee acculturation is William G. McLoughlin, *Cherokees and Missionaries, 1789–1839* (New Haven, Conn., 1984); and McLoughlin, *Cherokee Renascence in the New Republic* (Princeton, N.J., 1986).

> The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and in their property, rights and liberty, they shall never be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity shall from time to time be made, for preventing wrongs being done to them; and for preserving peace and friendship with them.

Congress did not foreswear a policy of land acquisition or lawful war, only pledged that land transfers would rest upon tribal consent and that military actions would be justified under white rationales. Likewise, Congress promised to restrain those traders and other whites who cheated Indians or intruded upon their lands illegally because such actions led to costly wars between the United States and the Indian tribes. In the end, whites decided what Indians needed or could use.[12]

The novelty of this policy lay only in its repudiation of congressional efforts immediately after the Revolution to claim Indian lands first as reparations and then by conquest. Immediately following the Revolution congressional commissioners to the Indian nations demanded land cessions as recompense for the tribes' siding with the British against the new United States. After the failure of that policy, the Confederation Congress pursued military conquest to gain the same lands and quiet the Indian opposition. Since neither policy worked because of successful native resistance combined with English and Spanish interference, the new federal government under President George Washington and his secretary of war, Henry Knox, advocated a policy more in keeping with the notion of national honor, a depleted treasury, and the seemingly inevitable expansion of white settlement. National honor was to be preserved through the purchase of the lands occupied by Indian tribes who presumably would sell willingly, and cheaply, when whites wanted to buy.[13]

By making the expansion of white America contingent upon Indian assent and white restraint, the Confederation Congress and, later, the federal government predicated a delicate balance of conditions that rarely obtained upon the frontier. First, the policy assumed at its foundation that Indians possessed more lands than they could or would use by accepted white standards and that therefore they would readily cede those lands to the government for small sums of money and gifts. The policy also presumed that settlers on the frontier could be restrained from occupying tribal lands even though they considered all Indian lands underutilized by white standards of resource usage. If the policy were to succeed as publicly espoused, then the same fate that decreed the increase of the white population on former Indian lands must also doom the Indians to disappearance through death or acculturation.

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[12] The provision that defined Indian relations in the Northwest Ordinance was re-adopted in effect by the new United States Congress under the Constitution when it adapted the Northwest Ordinance to the new federal government structure in 1789. *U.S. Statutes at Large*, I, 50-53.

[13] I have christened this policy "Expansion with Honor" in my *White Man's Indian*, pp. 145-53. The next few paragraphs follow closely the wording of some of my argument in that book. For more extended discussions of early United States policy, consult Francis Paul Prucha, *American Indian Policy in the Formative Years: The Indian Trade and Intercourse Acts, 1790–1834* (Cambridge, Mass., 1962); and Reginald Horsman, *Expansionism and American Indian Policy, 1783–1812* (East Lansing, Mich., 1967).

The policy rested, therefore, upon certain common white images of the Indians' ultimate fate and their lack of attachment to home turf. To most white Americans the Indian appeared doomed to extinction through disease as had been the case during earlier periods of contact. The Indian had always seemed to vanish before white advance and would presumably continue to disappear as white America expanded.[14] Moreover, whites assumed the remainder could and would continue to remove westward according to the standard imagery of native migratory habits. Westward migration like decimation from disease opened tribal lands to white occupation.

What disease and migration did not achieve, acculturation would finish under this view. Civilizational transformation of the Indian through acculturation would not only convert the "savage" to a bourgeois lifestyle but would also reduce the need for extensive tribal holdings because the land would be farmed American style. This supposedly more intensive use of the soil would release large areas of surplus tribal lands for white acquisition. White policy at its most philanthropic envisaged the exchange of white civilization for native resources and souls to the ultimate benefit of both whites and Indians according to white understanding. Until the Indians wanted to part with their lands, the federal government would prevent, by force if necessary, the illegal intrusion of greedy white settlers into the legally separate Indian country.

All in all, the basic policy of expansion with honor rested upon the assumption that the Indians need not cede lands faster than their changing status encouraged or required and that whites would not demand more land than the orderly advance of their frontier necessitated or stimulated them to require. The policy always presumed that cessions would be obtained before too much white expansion overwhelmed nearby tribes. Under this policy whatever was good for white Americans was also assumed desirable for Indians, even if the tribes had to be manipulated against their own inclinations for the larger good of all as whites judged those higher ends.

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[14] As its title suggests, Dippie's *The Vanishing American*, takes as its special theme the presumably doomed native.

Since white expansion was presumed not only unpreventable but as desirable as it was ultimately inevitable, policies for western lands and Indians contained a fundamental contradiction. In the end white policymakers like their frontier followers favored white progress through expansion of white settlement in the near future over the preservation of Indians on their native lands for the approbation of an abstract posterity. The Land Ordinance of 1785 and the Northwest Ordinance applied to areas that needed to be vacated of Indian title before the two acts could become effective in practice. The Land Ordinance, for example, presumed cession of tribal lands in the Old Northwest from the very beginning of surveys.[15] Likewise, the Northwest Ordinance could only operate in areas in which United States sovereignty had replaced tribal authority in actuality as well as in legal theory. The territorial system, in fact, by creating new states in the West only added in practice to the demands for faster Indian removal and land sales as the new representatives joined Congress. The fight between the East and the West over Indian policy was not over the replacement of Indians by Americans but over how soon and by what methods this was to be accomplished.

The anomaly built into the territorial system is conveyed well by the conflicting interests the territorial governor was to serve. As Indian superintendent of his territory he was to protect the Indians of his jurisdiction from white intrusion. As governor of the territory he was to aid whites in their endeavors to bring the area under cultivation and progress. As commander of the white-manned militia he was to order the enforcement of Indian regulations against local white inhabitants as well as the protection of his white constituents against resentful Indians.[16]

Some politicians, officials, and missionaries thought that the establishment of an exclusively Indian territory would eliminate or at least mitigate the contradictions between white expansion and Indian rights. Not until the Louisiana Purchase so dramatically increased the area of the United States did lands seem available for the creation of an all-Indian territory. The lands vacant of white settlements in the northern half of the purchase presented an ideal opportunity in Jefferson's mind for exchanging tribal lands in the East for new areas in the West with a guaranteed title. This proposition was written into the act erecting the southern and more populated portion of the Louisiana Purchase into the Orleans Territory in 1804.[17]

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[15] For the evolution of the Land Ordinance, see, in addition to Onuf, *Statehood and Union*, chapter 2, Paul W. Gates, *History of Public Land Law Development* (Washington, D.C., 1968), 59-74; and William D. Pattison, *Beginnings of the American Rectangular Land Survey System, 1784–1800* (Chicago, 1957). For application of the ordinance see, besides Gates, Malcolm J. Rohrbough, *The Land Office Business: The Settlement and Administration of American Public Lands, 1789–1837* (New York, 1968).

[16] For an examination of the dilemmas of the governors as Indian superintendents, see Eblen, *First and Second United States Empires*, chapter 8.

Jefferson's idea of guaranteeing emigrant tribes title to their western lands was reintroduced by President James Monroe at the end of his second term as a way of inducing eastern tribes to remove westward. As part of this plan Monroe urged the establishment of a "system of internal government which shall protect their property from invasion, and, by a regular progress of improvement and civilization, prevent that degeneracy which has generally marked the transition from one to the other state."

> The digest of such a government, with the consent of the Indians, which should be endowed with sufficient power to meet all the objects contemplated—to connect the several tribes together in a bond of amity and preserve order in each; to prevent intrusions on their property; to teach them by regular instruction the arts and civilized life and make them a civilized people—is an object of very high importance. It is the powerful consideration which we have to offer to these tribes as an inducement to relinquish the lands on which they now reside and to remove to those which are designated. It is not doubted that this arrangement will present considerations of sufficient force to surmount all their prejudices in favor of the soil of their nativity, no matter how strong they may be.[18]

For Secretary of War John C. Calhoun such a concession only made sense if the proposed system of governance "would gradually unite the several tribes under a simple but enlightened system of government, and laws formed on the priniciples of our own," and would prepare the tribes to join in the larger forms of American government "at no distant day."[19]

At the end of 1825 the House of Representatives resolved in favor of such an exchange and "a territorial Government over them of the same kind, and regulated by the same rules, that the Territories of the United States are now governed."[20] Following the suggestion of Secretary of War James Barbour,[21] the House Committee on Indian Affairs reported a bill "for the preservation and civilization of the Indian Tribes within the United States" that included a vague provision for the establishment of a territorial government for the legally guaranteed permanent residence of the emigrant Indians. Section six provided for the president to appoint, when he judged circumstances warranted, a governor, secretary, and three judges. The legislative council and other officers were to be selected from the "said Indians, as the President may deem proper." The president was to prescribe the rules and regulations for the administration of such a government and define the duty of the officers.[22] The bill failed of passage.

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[17] *U.S. Statutes at Large*, II, section 15, p. 289. Still useful on its topic is Annie H. Abel, "Proposals for an Indian State, 1778–1878," *Annual Report of the American Historical Association for the Year 1907* (2 vols., Washington, D.C., 1908), I, 87-104, but it should be supplemented for the earlier period by Ronald N. Satz, *American Indian Policy in the Jacksonian Era* (Lincoln, Nebr., 1975), chapters 5, 8.

[18] Special Message of James Monroe, January 27, 1824, in *A Compilation of the Messages and Papers of the Presidents*: Vol. 2 *[1817–1833]* (Washington, D.C., 1905), 281, 282.

[19] Quoted in Abel, "Proposals for an Indian State," 91 note g.

[20] U.S., *House Journal*, 19 Cong., 1 sess., 1824–1825 (serial set 130), 97.

[21] James Barbour to John Cocke, chairman of the House Committee on Indian Affairs, February 3, 1826, in *Congressional Debates*, 19 Cong., 1 sess., 1825–1826, Appendix, 41-42.

Forceful removal of the eastern Indians under Andrew Jackson made both the creation of a territorial home for emigrant Indians and the governance of the emigrant tribes more pressing than under the previous scheme of voluntary migration. As part of an overall plan for the governance of the tribal relationships in the area to which the eastern tribes removed and the accompanying reorganization of the United States Indian Office, the House's Committee on Indian Affairs reported a bill to establish a "Western Territory" that would be guaranteed forever to the removed tribes. Each of the tribes would continue to manage their own internal affairs through their current form of tribal government, but a presidentially appointed governor, who acted also as superintendent of Indian affairs for the territory, should call together the chiefs to form a confederacy to which the Choctaws, Cherokees, and Creeks must consent. The annual general council should contain no fewer than twenty-four men elected by the tribes or selected from the chiefs. As soon as possible all the council members should be elected in line with the preferred American mode of representation. The governor possessed absolute power to veto legislation and to convene and adjourn the council. The confederated tribes could elect a delegate to Congress by a method prescribed by the council "in order to encourage the said tribes, and to promote their advancement in the arts of civilized life, and to afford to them a convincing proof of the desire of the United States that they may eventually be secured in all the blessings of free government, and admitted to a full participation of the privileges now enjoyed by the American people."[23] If the council was permitted to make laws for intertribal affairs, its Indian members, as with all arbitrary territorial governments, were strictly under the control of the federal government. What was proposed in other words was a modified second stage government adapted to what was considered the Five Civilized Tribes' stage of acculturated progress.

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[22] House Bill 113, February 21, 1826, 19 Cong., 1 sess., 1825–1826 (National Archives, Washington, D.C.).

[23] House Bill 490, May 20, 1834, 23 Cong., 1 sess., 1834–1835, *ibid.*

Opposition in Congress ranged from the arguments of John Quincy Adams, serving in the House after his presidency, about the unconstitutionality of stipulating specific forms of Indian governments in violation of treaties or of erecting an all-Indian state to those stressing the despotic power given the president to control the territory through his appointive powers or the specter that the precedent of a territory for Indians might raise demands for one for a "deeper colored race."[24] While the bills codifying the trade and intercourse acts and the reorganization of the Indian Department passed both houses of Congress and were signed into law, the Indian territorial bill twice failed of passage in the House of Representatives. Later, in both 1837 and 1839, the Senate passed an Indian territorial bill by a large majority, but each time it died in the House. Modifications demanded in the series of bills suggest some of the specific issues: the territory should be allowed only an agent in the capital, not a delegate to sit in Congress; the title of governor disappears in favor of superintendent of Indian affairs; the method of selection and the number of tribal council members varies; the official journal of proceedings must be kept in English; all laws passed by the council must be accepted by the president. Throughout the decade of the 1830s, however, all versions of the bills looked forward to the creation of a single consolidated political entity premised upon the supercession if not also the destruction of the tribal governments and the continual intervention of a paternalistic federal government.[25]

As with the establishment of other territories, the creation of an Indian one raised questions over the extension of slavery, sectional balance in Congress, and partisan opposition to executive control over the temporary government. Congressmen, however, wondered in this instance whether the United States should encourage the consolidation of Indian enemies or foster an Indian state. Still others questioned whether even the Five Civilized Tribes let alone other tribes could ever reach a stage of political progress in their own governments that warranted the equality conferred by full-fledged statehood in the Union. In the end racist fears of fostering continued Indian "otherness" by permitting an ethnically based territory won out over the American ideal of self-government for all peoples in the United States.[26]

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[24] See Satz, *American Indian Policy in the Jacksonian Era*, 142-43.

[25] House Bill 365, February 19, 1836, 24 Cong., 1 sess., 1835–1836; House Bill 901, February 1, 1837, 24 Cong., 2 sess., 1836–1837; House Bill 495, January 30, 1838, 25 Cong., 2 sess., 1837–1838; Senate Bill 159, March 4, 15, 1836, 24 Cong., 1 sess., 1835–1836; Senate Bill 15, December 12, 15, 22, 1836, 24 Cong., 2 sess., 1836–1837; Senate Bill 75, December 20, 28, 1837, 25 Cong., 2 sess., 1837–1838; Senate Bill 23, December 10, 1838, 25 Cong., 3 sess., 1838–1839. All bills can be found in the National Archives.

[26] The legislative history of these efforts to erect an Indian Territory before the Civil War may be followed in Abel, "Proposals for an Indian State"; Satz, *American Indian Policy in the Jacksonian Era*, chapters 5, 8; Prucha, *Great Father*, I, 302-309.

Of course, all the plans always aimed at creating an Indian government on the American model complete with elections and representation proportional to population as opposed to either traditional or acculturated Indian ways. The dilemma for officials, missionaries, and other whites supporting the creation of an Indian territory was always how to permit a tribe's control of its own affairs as so often guaranteed in the treaties of removal and yet direct the various tribes into a new intertribal consolidated confederacy and council. The ultimate goal of all the plans reduced to the idea advanced by the Baptist missionary Isaac McCoy, who so indefatigably throughout the 1830s lobbied for such a territory and who hoped to preside over any Indian territory created. Following McCoy's ideas, Thomas L. McKenney believed that the Indians should "be placed under a Government, of which they shall form part, and in a Colonial relation to the United States . . . . In a Colony of course, the existing divisions among the Tribes would be superseded by a General Gov't for the whole . . . ."[27] Surely such colonization through confederation sought a cheaper and more efficient mode of controlling the tribes, as the government Indian agents in the field told their charges, but it also hoped to destroy tribal institutions and solidarity in favor of American ways.

The Cherokee, Choctaw, and Creek of the so-called Civilized Tribes opposed all these efforts to consolidate their governance and to supercede their own acculturated forms of government through some political entity not controlled by themselves as violating the long-term treaty obligations of the United States. After all, their members had adopted in the 1820s white models of government complete with constitutions and law codes, two-house legislatures, chief executives, courts and judges, and the other trappings of the American way of governance at the behest of the federal government and missionaries, and still the southern states demanded their removal. The Georgia authorities even used the Cherokees' new republican form of government to justify their removal on the grounds that under the federal Constitution a new state could not be formed within the boundaries of an older one without its consent. Thus a temporary government for an all-Indian territory might once again seem to threaten an *imperium in imperio* in the opinion of some congressmen.

The idea of an Indian territory based on customary American principles violated the Indians' right to their own form of acculturated self-government as they had adapted to American institutions. As a result the Five Civilized Tribes long opposed any attempts to erect an Indian territory according to the usual territorial model of arbitrary government as destructive of their own forms of government and the supposed sovereignty they possessed. To them it smacked of the customary paternalism and efforts to erode Indian rights if not to steal their lands as well through allotment in severalty, which was so often part of the package. That other tribes were to gain equal or even proportional representation in the territorial council with the Civilized Tribes only further convinced the latter of the nefarious purposes of the territorial scheme.

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[27] Thomas L. McKenney to Peter B. Porter, January 31, 1829, quoted in Abel, "Proposals for an Indian State," 93-94 note g. For McCoy's lobbying and views see George A. Schultz, *An Indian Canaan: Isaac McCoy and the Vision of an Indian State* (Norman, Okla., 1972); and Robert F. Berkhofer, Jr., Introduction to Isaac McCoy, *History of Baptist Indian Missions* (1840; reprint, New York, 1970), v-xxvii.

What the federal government was not able to achieve in consolidation of the Five Civilized Tribes on their new lands and the imposition of a unified intertribal government before the Civil War, it tried again after the ostensible defeat of the those tribes as allies of the Confederacy. The peace treaties generally specified participation in an elected general council of the Indian tribes presided over by a governor or superintendent of Indian affairs and the establishment of United States courts and marshals as well as land cessions for other tribes still to be removed, emancipation of Indian-owned slaves, and railroad rights of way across remaining tribal lands.[28] For the following two decades numerous bills were presented for the formation of a government for the tribes in the Indian territory, but none was enacted into law.[29] Most of the bills provided for a system of government modified and elaborated from the second stage as defined in the Northwest Ordinance with a two-house legislature with members usually elected proportionally to tribal populations; a presidentially appointed governor (with veto), attorneys and marshals, judges of supreme and district courts; and a delegate to the House of Representatives elected by the council or the voters. Often these officers were required to take an oath of loyalty to the United States and its laws. Sometimes the bills specified that the legislators and others be of Indian descent, and one bill proposed creating a territorial government staffed and elected by American citizens of African descent. Many of the bills establishing territorial government also provided for allotment in severalty and sales of the residual lands.

No wonder tribal representatives strenuously opposed efforts at establishing territorial government as unwarranted if not illegal intervention in tribal management of their own affairs, and they linked railroad charters, allotment in severalty, and the proposed territorial goverment with the continued loss of lands. They had agreed in the post-Civil War peace treaties to the annual council, they argued, only in order to forestall further federal intervention in the form of a single and alien form of territorial government. They held specifically that their territory "was exclusively an Indian country, as contradistinguished from a Territory of the United States . . ." and guaranteed by treaty never to be subordinated to a territory or state government.[30]

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[28] Senate Report 131, April 27, 1870, 41 Cong., 2 sess., 1869–1870 (serial set 1409), 4; Annie H. Abel, *The American Indian Under Reconstruction* (Cleveland, Ohio, 1925); Minnie Thomas Bailey, *Reconstruction in Indian Territory: A Study of Avarice, Discrimination, and Opportunism* (Port Washington, N.Y., 1972); Prucha, *Great Father*, chapter 16.

[29] The standard authority on this topic is Roy Gittinger, *The Formation of the State of Oklahoma, 1803–1906* (Norman, Okla., 1939). On pages 267-70 Gittinger provides a list of the bills through 1878 but mentions later ones in the text.

Congress had always claimed, however, the sole right, even over the president of the United States let alone the actual inhabitants of a place, to set the conditions for the erection of a territory and the nature of its temporary government. As one Senate Report reminded the tribal opposition in brusque language:

> While it is true that Congress should listen with patience and interest to suggestions from this source [Indians], it should be constantly kept in mind that it is Congress who is to prescribe a government for this Territory, and not the Indians who are to prescribe to Congress how it shall be governed. The Congress of the United States is not accustomed to ask the people who inhabit one of its Territories to determine for it the form of government to be established. If this is not done with intelligent American citizens, we are not disposed to depart from the rule in favor of those whose political experience would necessarily entitle their advice to less consideration.[31]

Blunt as the statement was, it merely applied longtime precedent in general territory making to the Indians.

Once again it was a clash of sovereignty, and in the long run the Five Civilized Tribes lost in favor of American-defined progress. Congressmen seemed to believe, as one Senate Report of 1870 argued, that the Fifteenth Amendment obligated Indian assimilation:

> It is in consonance with the new policy of the government, born of the war and matured by the fifteenth amendment, that no alien race shall exist upon our soil; all shall be citizens irrespective of race, color, or previous condition of servitude. It is part of the inexorable logic of the times that the Indian must adapt himself to the rights and duties of citizenship. He must wield the franchise and fulfill the obligations imposed thereby, otherwise he will gradually disappear as the waste soil becomes more and more absorbed by the increasing necessities of agriculture.[32]

Another Senate committee in the same year, however, denied that the Fourteenth Amendment gave citizenship to Indians still subject to tribal jurisdictions, and a court subsequently sustained this opinion.[33]

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[30] Memorial to President Ulysses S. Grant, February 9, 1874, quoted in Abel, "Proposals for an Indian State," 101.

[31] Senate Report 336, February 1, 1871, 41 Cong., 3 sess., 1870–1871 (serial set 1443), 3. Congress halted what many considered the fiction of treaty making with Indian tribes in 1871. This report stated that tribes were domestic dependent nations and anomalies in the national system. In the end the report declared Indians wards of the United States and subject to the will of the federal government.

[32] Senate Report 131, April 27, 1870, 41 Cong., 2 sess., 1869–1870 (serial set 1409), 4.

With the economic development of the states around the Indian Territory, white demands for lands and resources of the native inhabitants of the territory increased in Congress as well as in tribal councils. The policy of allotment in severalty offered in the eyes of the self-denominated Friends of the Indians opportunities for the final Americanization of the Indians through their detribalization. Forced settlement upon small farms patented to their owners eventually would destroy the communal foundations of tribal society in favor of American individualism. Other white but crasser citizens saw only the surplus lands being sold to good capitalists of their own kind.

The devastating General Allotment Act of 1886, which forced the breakup of tribal lands into individually owned homesteads according to the American way of property holding, excluded the Five Civilized Tribes from its provisions because of their adamant opposition. After 1889, however, the lands of other tribes in the western half of the Indian Territory rapidly opened to white settlement in the famous series of land rushes. Congress established the territory of Oklahoma with a second-stage government to embrace these areas as they opened to white settlement, once again demonstrating the relationship between ethnicity and territory making.[34]

Although the Five Civilized Tribes sought to organize the Indian Territory as a separate state with the continuation of their own tribal governments and land tenure customs, Congress had other plans. Those tribes' lands were brought under special allotment in the early years of the twentieth century; thus, the tribes and their land patterns were prepared eventually to enter the union as Americanized people. When the land basis of the tribal societies was dispersed as homesteads, the legal basis for the tribal governments was considered dissolved in the view of official United States policy. As a consequence of these actions Congress in 1901 declared all the Indians of the Indian Territory American citizens.

Should Oklahoma Territory and the Indian Territory be admitted as one or two states? Whites in the two territories favored both sides of the question because of the different government and legal system in the officially organized Oklahoma Territory as opposed to the unorganized Indian Territory. The Civilized Tribes favored separate admission, once convening a constitutional convention in 1902 and drafting a constitution for a state to be named Sequoyah. After a fact-finding expedition to the Southwest in late 1902, Indiana Senator Albert J. Beveridge, chairman of the Senate Committee on Territories, favored the admission of the two territories as a unified Oklahoma because of the large "energetic" (white) American population that predominated even in the Indian territory.[35] When tribal authority and institutions disappeared in 1906 in the area traditionally governed by the Five Civilized Tribes, Congress was persuaded finally to pass an act enabling a constitutional convention to draw up a constitution for the unified state of Oklahoma. Oklahoma was admitted as a single, preponderantly white state in 1907. About a third of its new citizens were Indian, and its new state constitution, by requirement of Congress, forbade the sale of alcohol to them.

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[33] Berkhofer, *White Man's Indian*, 176-77.

[34] In addition to Gittinger, *Formation of the State of Oklahoma*, chapters 7-11, see Prucha, *American Indian Policy in Crisis*, especially chapters 8, 13. Prucha's entire book treats the larger context of federal Indian policy as an exercise in Americanization.

Did Congress ever intend the Indian Territory to become an Indian state equal to other states in the Union? Congress never created a government for the territory when Indians predominated and never permitted a delegate to Congress from those tribes that were allowed one by treaty. Clearly tribal Indian and American citizen were considered opposing roles. Only through allotment and detribalization were Indians made citizens and permitted to become part of an American state. To the extent that Congress considered establishing an Indian territorial government, it was usually a device for acculturation and assimilation of aboriginal inhabitants according to the ideals of Americanism.

Congressional efforts to create an ethnically Indian territory revealed the fundamental contradiction between the ideology of Americanism as a set of supposedly universal ideals and their ethnic biases as applied to the Indian. That Congress considered so many bills establishing an ethnic Indian territory and that the Senate even passed two of them speaks to the ideal of incorporating Indians into United States society as self-governing peoples on the model of other territories. That no one bill ever passed both houses speaks to the ethnic prejudices of Americanism vis-á-vis the Indian. Partisan opposition and sectional balance played their role in the failure of these bills to become laws, but the debates over the nature of the proposed governments as well as the actual administration employed provide evidence of the usual ambivalence of Americans in incorporating those they considered Un-Americans into their society. The lesson of this Indian territorial history would seem to be that the erection of a new territory, like the admission of a new state, depended upon the prevalence of an ethnically acceptable—that is, "American"—population as well as the predominance of the same kind of Americans in running the government.

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[35] In 1902 the Majority Report of the Senate Committee on Territories outlined the criteria for granting statehood: "The advancement of the people, their state of life, their familiarity and sympathy with our institutions, their educational condition, and all the elements that go to make up good citizenship are to be equally considered." Thus the report devotes much space to languages spoken and read, literacy in English, educational institutions, economic progress, and numbers of population by ethnicity. Senate Committee on Territories, Majority Report, "New Statehood Bill," Senate Report 2206, part 1, December 10, 1902, 57 Cong., 2 sess., 1902–1903 (serial set 4410), 5.

Alaskan history under American jurisdiction offers further proof of this hypothesis for Indian peoples. Article three of the treaty of purchase exempted the "uncivilized native tribes" from its provision for granting the residents of Alaska the rights, advantages, and immunities of United States citizens.[36] Congress at first classified Alaska with its overwhelmingly native population of Indians, Eskimos, and Aleuts as part of Indian country according to the Indian Intercourse Act of June 30, 1834. The United States Army, Customs, and Navy administered in succession the new land for fourteen years after cession, in so far as it could be said to be governed at all, before Congress designated Alaska in 1884 not even a territory but a "civil and judicial district." This novel government resembled a highly arbitrary first stage of territorial government under the rule of a governor, district judge, clerk of court, marshal and four deputy marshals, and four commissioners who acted like justices of the peace. With the administration of Alaska under far greater federal control than was usual in early territorial government at the time, Congress refused to extend the Constitution to Alaskans and prohibited, as in other areas defined as Indian country, the importation of liquor.[37]

The influx of American population after the Klondike strike renewed petitions to Congress for self-government through territorial status, but congressmen still thought the white miners too migratory and the natives too unprepared for the responsibilities of American-style government. By the early twentieth century the whole issue of Alaskan governance had become entwined with conservation, partisan politics, and exploitation of the natural resources of America's northern outpost. Some congressmen looked to reducing Alaska to commonwealth or some other status to keep these Un-Americans out of the Union along with the Spanish inhabitants of the new empire acquired at the end of the Spanish-American War.[38] Congress, however, authorized a territorial delegate in 1906 and organized finally a proper territorial government with elective legislature in 1912, when congressmen also admitted into the Union the last two territories in the continental contiguous United States. Unlike other territories in the past, however, almost all the land of Alaska remained not only under the control of the federal government but under its ownership legally, which was the usual case of lands claimed and occupied by Indians but under United States sovereignty and trusteeship.

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[36] Article 3, Treaty with Russia, June 20, 1867, *U.S. Statutes at Large*, XIV, 539. Article 3 reads in part: "They, with the exception of uncivilized native tribes, shall be admitted to the enjoyment of all rights, advantages, and immunities of citizens of the United States, and shall be protected in the free enjoyment of their liberty, property and religion." For an exposition of this article see David H. Miller, *The Alaska Treaty* (Kingston, Ontario, 1981), 206-14.

[37] An overview of the pertinent history of Alaska as a territory can be found in Whitney T. Perkins, *Denial of Empire: The United States and Its Dependencies* (Leyden, 1962), chapter 2; and in relevant chapters of Ernest Gruening, *The State of Alaska* (2nd ed., New York, 1968). Claus-M. Naske offers an interpretive overview in *A History of Alaska Statehood* (Lanham, Md., 1985). For the earlier period see Jeanette Paddock Nichols, *Alaska: A History of its Administration, Exploitation, and Industrial Development during Its First Half Century under the Rule of the United States* (Cleveland, 1924); and Ted C. Hinckley, *The Americanization of Alaska, 1867–1897* (Palo Alto, Calif., 1972).

Although World War II, the Korean conflict, and superpower geopolitical considerations brought military and other white American population to Alaska after 1940, many of the old congressional complaints about the nature of the population, the harsh climate, and the lack of indigenous free enterprise combined with the federal ownership of 99 percent of the land, all abetted by partisan politics, stalled statehood. Only in 1958 did Alaska finally become the forty-ninth state. Sparse as the population appeared to the eyes of many congressmen, "Americans" outnumbered the natives by six to one in accord with the history of previous territories. By that time, however, the native population had elected Indian and Eskimo members of the territorial legislature.

A drama traditional in nineteenth century history is being replayed in modern Alaska: who will develop and benefit from the natural resources? Will the new drama created by the Alaska Native Claims Settlement Act and its supplements lead to a different ending than those played in the previous century? Only the future conclusion of this drama will prove whether the relationships traditional between territory making and Indian peoples' lives and resources has at last found a new ending.[39]

Expansion with honor as a policy for United States Indian relations was bound to fail not only because of the impossibility of maintaining the delicate balance between tribal and white interests presumed at its base but also because American ethnocentrism only permitted solutions to the "Indian problem" on terms limited by white ideals. Such ethnic onesidedness shaped first the seemingly generous policy enunciated in the third article of the Northwest Ordinance and then the efforts at erecting an Indian territory modeled on its provisions. In the end the territorial system presumed governments elected and run by white Americans, for those dominant in the United States denied as an ideal and refused to recognize in practice the plural society the nation was. As a consequence, Indian peoples were long refused citizenship in the nation of their birth and treated as problems to be solved rather than as cultures to be accepted. The ideological basis of Americanism demanded that all other peoples adopt American ideals in order to be fully accepted in the national society, but the ethnic bias of Americans if not Americanism itself classified certain peoples as "others" too un-American to be assimilated.

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[38] Walter L. Williams argues the connection between federal Indian policy and the administration of the new empire in "United States Indian Policy and the Debate Over Philippine Annexation: Implications for the Origins of American Imperialism," *Journal of American History*, LXVI (March, 1980), 810-31.

[39] For some idea of the conflict see the appropriate parts of the proceedings of the Alaska Native Review Commission (1984).

No peoples proved the paradox inherent in Americanism more than those collectively designated *Indian* by the white populace. That American colonies were known as territories further concealed the nature of the native peoples' plight as the result of an ambivalent, but imperial, Americanism. Americanism in its best interpretation—as a code of high ideals—blinded most politicians, intellectuals, and other citizens to the continued efforts of native peoples to maintain separate societies and cultures. The American territorial system provided and demanded but one kind of governmental model for all peoples. If America was plural in ethnicity and Americanism was ambivalent in ideal, the history of Indian relations in general and the history of Indian territory making in specific shows that the motto of *e pluribus unum* applied both to ethnicity and government in the American way of doing things for (and to) Indians.

Liberty's Legacy: A Review Essay

*George W. Geib**

Between July, 1987, and June, 1988, a remarkable exhibit will tour each of the six states of the Old Northwest, offering visitors an opportunity to observe a significant collection of documents and illustrations connected with the bicentennial of two great texts of freedom: the United States Constitution and the Northwest Ordinance. The exhibit is a collaborative effort sponsored by the alumni associations of the nine Big Ten universities located within the Old Northwest and six libraries and historical societies within those states. Commencing at the Ohio Historical Society in Columbus on July 1, 1987, the exhibit is scheduled to tour in sequence the Lilly Library on the campus of Indiana University in Bloomington; the William L. Clements Library of American History on the campus of the University of Michigan, Ann Arbor; the Newberry Library in Chicago, Illinois; the State Historical Society of Wisconsin in Madison; and the Minnesota Historical Society in Minneapolis. Relying upon materials drawn exclusively from the collections of these six host institutions, and particularly from the Clements and the Lilly libraries, the exhibit is, like its subjects, of both regional and national significance.

The exhibition contains 122 items, 63 of which deal with the Ordinance and 59 with the Constitution, testifying to the richness and variety of source materials available within the Midwest. Materials from the Clements Library dominate the treatment of the Northwest Ordinance, while the Lilly Library's collections are paramount in the treatment of the Constitution. The exhibit, however, approaches the two documents in very different ways. Items dealing with the Constitution focus upon the critical years from the Annapolis convention in 1786 to the tardy ratification by Rhode

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Island in 1790 and explore in detail the process of writing and approving the document. Items dealing with the Ordinance on the other hand range over more than a century from the dawning concern for western issues in the 1750s to the admission of the last of the Old Northwest states, Minnesota, in 1859. The treatment of the Constitution—relying almost exclusively upon contemporary newspapers, pamphlets, and manuscripts—attests to the current significance of the study and the interpretation of basic texts by both academic and public figures. Four-fifths of the Constitutional entries focus upon the process of ratification, stressing the remarkable variety of arguments and viewpoints that emerged in the months immediately following the adjournment of the Philadelphia convention. Announcements of ratification parades stand next to heated denunciations by critics later termed Anti-Federalist, a vivid preface to the range of celebration and analysis that the planners of the exhibit undoubtedly hoped to encourage. The particular selection of pamphlet and newspaper articles further suggests that the exhibit's organizers were often influenced by the current emphasis upon the ideology of republicanism as a shaping force in explaining and producing the constitutional system.

The materials dealing with the Northwest Ordinance on the other hand show a special concern for the visual representation of the West by cartographers, engravers, and popular cartoonists, whose varied products represent fully half the items in this portion of the exhibit. Here the emphasis is upon image rather than upon text, with planners of the exhibit striving to trace the progress and accomplishments of the Northwest Ordinance within the larger context of the progress of settlement and comprehension of the trans-Appalachian West. Some viewers may question the comparatively heavy emphasis upon the Indian wars and treaties of the period between 1790 and 1815. All will be impressed, however, by the remarkable contributions of geographers and mapmakers to both official and public understanding of the background and implications of the survey and settlement provisions of the Ordinance. The exhibit is both a tribute and an invitation to interdisciplinary study.

Considerations of space in six very different host facilities imposed severe limitations upon the designers of the display itself and tended to separate the more visually striking maps and prints from the rows of printed materials. Combined with the subdued lighting necessary to preserve ink and paper, the display cases are sometimes more a feast for mind than for eye. Yet many items retain their inherent fascination: Thomas Jefferson's copy of *The Federalist* papers with his handwritten attributions of authorship, Rufus Putnam's detailed map of a model township in the new territory, and George Washington's letter accepting the presidency in 1789 are among the gems of the collection. The midwestern sense of place shines through the exhibition, from Lord Shelburne's detailed manuscript map of the deployment of British forces in the 1760s, through Thomas Hutchinson's map of the River Ohio from Fort Pitt to the Mississippi (with detailed notation of great elephant bones at Big Bone Lick), to Fielding Lucas's map of the Michigan Territory in 1824. Gilbert Stuart's portrait of Washington, pencil sketches of the five American commissioners for the Treaty of Ghent, and James Lewis's color lithograph of the Shawnee Prophet are among the portraits that lend a human and personal dimension to the study of union, self-government, and expansion.

Those unable to visit the exhibition may still capture an excellent sense of both its content and its design through the attractive catalog prepared to accompany the tour.[1] *Liberty's Legacy* contains specific citations to each of the exhibit entries together with explanatory notes that are in most cases more detailed than the descriptive cards in the display itself. Accompanying the text are illustrations of sixty-two of the exhibit entries, fourteen of which are presented in full color. Browsers will enjoy many of the colorful and insightful details of the individual entries, although at times the link between particular items and the overall theme of the exhibit is not clearly developed. The entries properly focus upon the historical background and significance of the material in the exhibition. Quite apparent, however, is the obvious care and consideration that the donors and curators of the host institutions have shown in assembling and preserving these significant and sometimes unique materials.

Liberty's Legacy also contains two informed popular introductions to the ideas and themes raised by the documents in the exhibit. Pauline Maier's essay on the United States Constitution focuses upon the traditional theme of the critical period in American history and upon the attempts of young men of the American Revolution to find a system of government that could indeed balance order with liberty. Unlike the ratification-focused materials of the exhibition, she concentrates upon the central issues that were raised in the Philadelphia convention itself, striving to lay a foundation within which the later debates in the state conventions can be placed and understood. Maier is particularly concerned with the definition of federalism and with the complicated theoretical plans and practical compromises that resulted in, as she styles it, "a new form of government."[2] Her attached bibliography, like the essay itself, is a tribute to the enduring influence of Max Farrand and the contemporary importance of Gordon S. Wood.

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[1] *Liberty's Legacy: Our Celebration of The Northwest Ordinance and The United States Constitution* ([Columbus]: Ohio Historical Society, [1987]. Pp. 116. Illustrations, maps, recommended reading. Paperbound.)

[2] *Ibid.*, 70.

In "The Importance of the Northwest Ordinance," Peter S. Onuf summarizes many of the themes and insights that he has ably developed in his recent writings. The essay will be of particular interest to midwestern readers. Here the focus is upon union, upon the desire of eastern political leaders to incorporate the West within the American system of government, but to incorporate it under terms and conditions that would support, rather than threaten, the established political order. Onuf concentrates upon the theme of responsibility within the Ordinance, noting that its provisions for education, secure land title, and gradual development of self-government were consistent with a desire to attract settlers of substance and judgment to the Old Northwest. He is careful to point out a close link between the Ordinance adopted in New York in July of 1787 and the Constitution being framed at the same time in Philadelphia. At the same time he recognizes the fact that while the authors of the Ordinance envisioned the expansion of the American system, they also envisioned the document's own extinction as it was gradually replaced by the constitutions of the new states of the Northwest Territory. Onuf effectively suggests that the Ordinance has played both real and symbolic functions within the American Midwest and that it is best understood through appreciation of "the challenges facing earlier generations" in the process of settlement.[3] He is deeply impressed by the irony inherent in a document designed to promote union and yet, in its antislavery provisions, ultimately capable of contributing to a sense of sectionalism.

Liberty's Legacy is, in short, public programming of a high order. In its blend of analytic interest, archival attention, and celebratory display, it suggests the rich range of approaches available to students of both national and regional culture in 1988. Just as the Revolutionary bicentennial of 1976 provided springboards to subsequent study and programming, so the Big Ten traveling exhibit invites Americans to explore and probe the role played by the great texts of 1787 in understanding both past and present in Indiana and the nation.

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[3] *Ibid.*, 15.

"Liberty's Legacy": An Exhibition Celebrating the Northwest Ordinance and the United States Constitution

Sponsored by the Alumni Associations of

Indiana University
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University of Minnesota
Purdue University
University of Illinois
The University of Michigan
The Ohio State University
University of Wisconsin
Northwestern University

Documents on the Northwest Ordinance

NWO1L*	Evans map of the Middle British Colonies, 1755
NWO2L	Franklin's pamphlet on British interests in North America, 1760
NWO3C	Engraving of the death of Wolfe at the fall of Quebec, 1776
NWO4L	Preliminary peace treaty ending the French and Indian War, 1762
NWO5C	The King's proclamation to prevent settlement in the West, 1763
NWO6C	British military map showing the Western frontier, 1766
NWO7C	First accurate map of the Ohio River by Thomas Hutchins, 1766
NWO8C	Letter telling of the rapid settling in the Ohio country, 1769
NWO9C	Early printing of the *Articles of Confederation*, our first constitution, 1777
NWO10L	Carver's "new" map of North America, 1778
NWO11C	Cartoon satirizing the peace treaty with the Americans, 1783
NWO12C	First American printing of the treaty ending the Revolutionary War, 1784
NWO13C	Map showing how western lands would be divided, 1784
NWO14C	British map showing the expanse of land in the new nation, 1783
NWO15C	Report of Virginia's cession of its western lands, 1781
NWO16C	Congressional report regarding state land claims and division of the territory, 1781
NWO17C	Treaty of Ft. McIntosh with several Indian tribes, 1785
NWO18C	Congressional resolutions creating a regular national army, 1785
NWO19C	Petition of Ohio settlers to delay eviction from the Ohio country, 1785
NWO20C	The Ordinance of 1785 providing for land survey and sales
NWO21C	Map showing a Meigs County, Ohio, township, c. 1787

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*L–Lilly Library; C–Clements Library; O–Ohio Historical Society; M–Minnesota Historical Society; W–State Historical Society of Wisconsin; N–Newberry Library.

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NWO22C	Thomas Hutchins's letter reporting on the progress of the land survey, 1786
NWO23C	Manasseh Cutler's map showing Ohio Company and other land claims, 1788
NWO24CL	Two copies of the *Northwest Ordinance of 1787*
NWO25W	Nathan Dane's letter reporting on the drafting of the *Northwest Ordinance, 1787*
NWO26C	Articles of an Association called the Ohio Company, 1786
NWO27O	Plan of the Ohio Company's purchase, 1787
NWO28C	Hamilton's ideas on selling western lands, 1790
NWO29L	An act granting land to inhabitants of the Northwest Territory, 1791
NWO30C	Letter authorizing Josiah Harmar's campaign against the Miamis, 1790
NWO31C	Account of the Indian victory over General St. Clair, 1792
NWO32O	Printing of the first laws of the Northwest Territory, 1791
NWO33O	The first newspaper in the Northwest Territory, 1793
NWO34C	Map of General Anthony Wayne's military actions, 1793-4
NWO35O	Letter extending General Wayne's power to negotiate peace with the Indians, 1795
NWO36C	Treaty signed by ninety Indian chiefs at Greenville, 1795
NWO37C	Lewis map of Northwest Territory, 1796
NWO38C	Letters from Surveyor General on the progress of the land survey, 1797 and 1799
NWO39C	Map showing the Connecticut Reserve, 1796
NWO40O	Plat of the land reserved for Revolutionary War veterans, 1796
NWO41O	First printing of Ohio's constitution, 1802
NWO42C	Colored lithograph of The Prophet, brother of Tecumseh, 1823
NWO43L	An early view of Cincinnati, 1812
NWO44C	Newspaper report of early English victories in War of 1812
NWO45C	An Ohio newspaper report on the surrender of Detroit, 1812
NWO46C	Colored engraving of the fort on Mackinac Island, 1813
NWO47C	Sketch showing military actions on the Detroit River, 1812
NWO48C	Colored engraving of massacre at Frenchtown, 1813
NWO49C	Engraving depicting Oliver Hazard Perry's victory on Lake Erie, 1813
NWO50C	One of three copies of the Treaty of Ghent ending the War of 1812
NWO51C	P. Van Huffel's sketches of American peace commissioners, 1815
NWO52C	Portraits of Indian chiefs in native dress by James O. Lewis, 1835-6
NWO53L	Constitution of the State of Indiana, 1816
NWO54L	First map of State of Indiana, 1817
NWO55L	Constitution of the State of Illinois, 1818
NWO56L	Fielding Lucas's map of Illinois, 1823
NWO57C	Fielding Lucas's map of the Michigan Territory, 1824
NWO58C	Gouache drawing of the first steamship on the Great Lakes, c. 1820
NWO59W	Constitution of the State of Michigan, 1835
NWO60C	Map of the Michigan and Wisconsin territories, 1835
NWO61W	Constitution of the State of Wisconsin, 1848
NWO62M	Whitefield's view of Minneapolis and St. Paul, 1857
NWO63W	Constitution of the State of Minnesota, 1857

Documents on the United States Constitution

USC1L[*]	John Dickinson's Address to Annapolis Convention, September 14, 1786
USC2L	Congressional invitation to convention delegates, February 21, 1787

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[*] L–Lilly Library; C–Clements Library; O–Ohio Historical Society; M–Minnesota Historical Society; W–State Historical Society of Wisconsin; N–Newberry Library.

USC3L	John Quincy Adams, Editor, Convention secretary's journal of May 14–17, 1787
USC4L	Robert Yates, *Secret Proceedings and Debates* of the convention
USC5L	The Papers of James Madison; convention reports, correspondence, 1840
USC6L	Alexander Hamilton's plan for establishing a Constitution, 1787
USC7L	The first printed draft of the Constitution, Philadelphia, 1787
USC8L	The fourth draft of the Constitution, Philadelphia, 1787
USC9L	The first public release of the Constitution, *The Pennsylvania Packet*, September 9, 1787
USC10L	Charles Pinckney's plan of government submitted to the convention, 1787
USC11L	Noah Webster's defense of the new Constitution, 1787
USC12C	Letter from George Washington with comments on the Constitution, 1787
USC13L	Samuel Otis's letter on Massachusetts ratification, 1778
USC14L	*The Pennsylvania Packet* reports Delaware's ratification, December, 1787
USC15C	Tench Coxe and James Wilson's defense of the Constitution, Philadelphia, 1787
USC16L	Pennsylvania debates of September 4–29 regarding ratification, 1787
USC17L	Pennsylvania minority dissent against ratification, December, 1787
USC18L	Pennsylvania printing, in German, of Constitution, September, 1787
USC19C	Anthony Wayne's support of Pennsylvania ratification, November, 1787
USC20L	Speeches of James Wilson and Thomas McKean supporting ratification, Philadelphia, 1788
USC21C	Pennsylvania ratification, December, 1787
USC22L	*The Pennsylvania Packet*'s report on New Jersey ratification, December, 1787
USC23C	*The Pennsylvania Gazette* announces Georgia's December ratification, 1787
USC24L	Connecticut newspaper printing of Constitution, October 1, 1787
USC25L	Debates of the Massachusetts ratification convention in Boston, 1788
USC26L	Pamphlet telling of historian Mercy Otis Warren's opposition to ratification, February, 1788
USC27L	Massachusetts pamphlet with suggested amendments, Boston, 1788
USC28C	Maryland pamphlet supporting ratification, Annapolis, 1788
USC29L	Maryland delegate Luther Martin's report to legislature, November 29, 1787
USC30L	South Carolina's printing of the Constitution, May, 1788
USC31L	Directory of delegates and how they voted, South Carolina ratification convention, May, 1788
USC32L	New Hampshire's printing of Constitution for state convention, December, 1787
USC33L	Virginia Governor Edmund Randolph's letter about ratification, October, 1787
USC34C	Patrick Henry's letter opposing the Constitution, October, 1787
USC35L	Letter by Nathan Dane regarding his opposition to the Constitution, June, 1788
USC36L	Madison's letter to Washington informing him of Virginia's ratification, June, 1788
USC37L	Records and debates of the Virginia convention, June, 1788
USC38L	Henry Knox's letter to the new governor of the Northwest Territory, July, 1788
USC39L	A presumed New York tenant farmer's letter opposing ratification
USC40C	Constitution printed for New York state convention, 1788
USC41L	Newspaper printing of first *Federalist Paper* by Alexander Hamilton, October, 1788

USC42N	Thomas Jefferson's copy of *The Federalist* published in May, 1788
USC43L	New York Antifederalist pamphlet circulated in November, 1787
USC44L	John Jay's address to the people of New York defending the Constitution, April, 1788
USC45L	Francis Child's report of the New York convention, December, 1788
USC46C	An anthology of New York state Antifederal material published in 1788
USC47L	A pamphlet by Melancton Smith urging amendments to the Constitution, New York, 1788
USC48L	Judge Simeon Baldwin's speech recognizing constitution adoption, New Haven, July, 1788
USC49C	Francis Hopkinson's account of the Philadelphia celebration of July 4, 1788
USC50L	North Carolina's rejection of the Constitution on July 21, 1788
USC51L	Newspaper account of North Carolina's ratification on November 21, 1789
USC52L	Rhode Island's second referendum on a state convention, 1789
USC53L	Presidential election ordinance of confederation congress to form new government, September, 1788
USC54L	Letter from the Rev. William Smith voicing concern over federal elections, January, 1789
USC55L	George Washington's letter accepting the U.S. presidency, April 4, 1789
USC56L	Newspaper account of Washington's inauguration, 1789
USC57L	The First Acts of Congress and the Bill of Rights, 1789
USC58L	Rhode Island's ratification, 1790
USC59L	Gilbert Stuart's portrait of George Washington, 1796

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